

(6) Chief, Office of Strategic Planning and Policy Analysis.

(7) Chief, Consumer and Governmental Affairs Bureau.

(8) Chief, Enforcement Bureau.

(9) Chief, International Bureau.

(10) Chief, Media Bureau.

(11) Chief, Wireline Competition Bureau.

(12) Chief, Wireless Telecommunications Bureau.

#### SEC. 9. VIDEO DESCRIPTION RULES AUTHORITY.

Notwithstanding the decision of the United States Court of Appeals for the District of Columbia Circuit in Motion Picture Association of America, Inc., et al, v. Federal Communications Commission, et al (309 F. 3d 796, November 8, 2002), the Federal Communications Commission—

(1) shall, within 90 days after the date of enactment of this Act, reinstate its video description rules contained in the report and order identified as Implementation of Video Description of Video Programming, Report and Order, 15 F.C.C.R. 15,230 (2000); and

(2) may amend, repeal, or otherwise modify such rules.

### AVIATION INVESTMENT AND REVITALIZATION VISION ACT

(On Thursday, June 12, 2003, the Senate passed H.R. 2115, as follows:)

*Resolved*, That the bill from the House of Representatives (H.R. 2115) entitled “An Act to amend title 49, United States Code, to reauthorize programs for the Federal Aviation Administration, and for other purposes.”, do pass with the following amendment:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE; AMENDMENT OF TITLE 49.

(a) *SHORT TITLE*.—This Act may be cited as the “Aviation Investment and Revitalization Vision Act”.

(b) *AMENDMENT OF TITLE 49*.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 49, United States Code.

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title; amendment of title 49.

Sec. 2. Table of contents.

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Sec. 102. Airway facilities improvement program.

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Sec. 104. Research, engineering, and development.

Sec. 105. Other programs.

Sec. 106. Reorganization of the Air Traffic Services Subcommittee.

Sec. 107. Clarification of responsibilities of chief operating officer.

Sec. 108. Whistle-blower protection under Acquisition Management System.

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Sec. 201. National capacity projects.

Sec. 202. Categorical exclusions.

Sec. 203. Alternatives analysis.

Sec. 204. Increase in apportionment for, and flexibility of, noise compatibility planning programs.

Sec. 205. Secretary of Transportation to identify airport congestion-relief projects.

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Sec. 207. Special rule for airport in Illinois.

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Sec. 211. Noise disclosure.

Sec. 212. Prohibition on requiring airports to provide rent-free space for FAA or TSA.

Sec. 213. Special rules for fiscal year 2004.

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Sec. 217. Share of airport project costs.

Sec. 218. Pilot program for purchase of airport development rights.

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#### TITLE III—AIRLINE SERVICE DEVELOPMENT

##### Subtitle A—Program Enhancements

Sec. 301. Delay reduction meetings.

Sec. 302. Small community air service development pilot program.

Sec. 303. DOT study of competition and access problems at large and medium hub airports.

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Sec. 354. EAS program authority changes.

Sec. 355. One-year extension of EAS eligibility for communities terminated in 2003 due to decreased air travel.

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Sec. 371. GAO report on airlines actions to improve finances and on executive compensation.

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Sec. 403. Technical amendments related to security-related airport development.

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Sec. 406. General aviation and air charters.

Sec. 407. Air defense identification zone.

Sec. 408. Report on passenger prescreening program.

Sec. 409. Removal of cap on TSA staffing level.

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#### TITLE V—MISCELLANEOUS

Sec. 501. Extension of war risk insurance authority.

Sec. 502. Cost-sharing of air traffic modernization projects.

Sec. 503. Counterfeit or fraudulently represented parts violations.

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Sec. 509. Low-emission airport vehicles and ground support equipment.

Sec. 510. Pacific emergency diversion airport.

Sec. 511. Gulf of Mexico aviation service improvements.

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Sec. 515. National commission on small community air service.

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Sec. 601. Findings.

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Sec. 621. Office of Aerospace and Aviation Liaison.

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Sec. 668. Pilot program to provide incentives for development of new technologies.

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#### TITLE VII—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY

Sec. 701. Extension of expenditure authority.

#### TITLE I—REAUTHORIZATIONS; FAA MANAGEMENT

##### SEC. 101. AIRPORT IMPROVEMENT PROGRAM.

(a) *AUTHORIZATION OF APPROPRIATIONS*.—Section 48103 is amended—

(1) by inserting “(a) IN GENERAL.—” before “The”;

(2) by striking “and” in paragraph (4);

(3) by striking “2003.” in paragraph (5) and inserting “2003;”;

(4) by inserting after paragraph (5) the following:

- “(6) \$3,400,000,000 for fiscal year 2004;
- “(7) \$3,500,000,000 for fiscal year 2005; and
- “(8) \$3,600,000,000 for fiscal year 2006.”; and

(5) by adding at the end the following:

“(b) ADMINISTRATIVE EXPENSES.—From the amounts authorized by paragraphs (6) through (8) of subsection (a), there shall be available for administrative expenses relating to the airport improvement program, passenger facility fee approval and oversight, national airport system planning, airport standards development and enforcement, airport certification, airport-related environmental activities (including legal service), to remain available until expended—

- “(1) for fiscal year 2004, \$69,737,000;
- “(2) for fiscal year 2005, \$71,816,000; and
- “(3) for fiscal year 2006, \$74,048,000.”.

(b) OBLIGATIONAL AUTHORITY.—Section 47104(c) is amended by striking “2003,” and inserting “2006.”.

#### SEC. 102. AIRWAY FACILITIES IMPROVEMENT PROGRAM.

(a) IN GENERAL.—Section 48101(a) is amended by adding at the end the following:

- “(6) \$2,916,000,000 for fiscal year 2004.
- “(7) \$2,971,000,000 for fiscal year 2005.
- “(8) \$3,030,000,000 for fiscal year 2006.”.

(b) BIENNIAL REPORTS.—Beginning 180 days after the date of enactment of Act, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure every 6 months that describes—

- (1) the 10 largest programs funded under section 48101(a) of title 49, United States Code;
- (2) any changes in the budget for such programs;
- (3) the program schedule; and
- (4) technical risks associated with the programs.

#### SEC. 103. FAA OPERATIONS.

(a) IN GENERAL.—Section 106(k)(1) is amended—

- (1) by striking “and” in subparagraph (C);
- (2) by striking “2003.” in subparagraph (D) and inserting “2003;”;
- (3) by adding at the end the following:

“(E) \$7,591,000,000 for fiscal year 2004;

“(F) \$7,732,000,000 for fiscal year 2005; and

“(G) \$7,889,000,000 for fiscal year 2006.”.

(b) ANNUAL REPORT.—Beginning with the submission of the Budget of the United States to the Congress for fiscal year 2004, the Administrator of the Federal Aviation Administration shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that describes the overall air traffic controller staffing plan, including strategies to address anticipated retirement and replacement of air traffic controllers.

#### SEC. 104. RESEARCH, ENGINEERING, AND DEVELOPMENT.

(a) AMOUNTS AUTHORIZED.—Section 48102(a) is amended—

- (1) by striking “and” at the end of paragraph (7);
- (2) by striking the period at the end of paragraph (8) and inserting a semicolon; and
- (3) by adding at the end the following:

“(9) for fiscal year 2004, \$289,000,000, includ-

ing—

“(A) \$200,000,000 to improve aviation safety, including icing, crashworthiness, and aging aircraft;

“(B) \$18,000,000 to improve the efficiency of the air traffic control system;

“(C) \$27,000,000 to reduce the environmental impact of aviation;

“(D) \$16,000,000 to improve the efficiency of mission support; and

“(E) \$28,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures;

“(10) for fiscal year 2005, \$304,000,000, includ-

ing—

“(A) \$211,000,000 to improve aviation safety;

“(B) \$19,000,000 to improve the efficiency of the air traffic control system;

“(C) \$28,000,000 to reduce the environmental impact of aviation;

“(D) \$17,000,000 to improve the efficiency of mission support; and

“(E) \$29,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures; and

“(11) for fiscal year 2006, \$317,000,000, includ-

ing—

“(A) \$220,000,000 to improve aviation safety;

“(B) \$20,000,000 to improve the efficiency of the air traffic control system;

“(C) \$29,000,000 to reduce the environmental impact of aviation;

“(D) \$18,000,000 to improve the efficiency of mission support; and

“(E) \$30,000,000 to improve the durability and maintainability of advanced material structures in transport airframe structures.”.

#### SEC. 105. OTHER PROGRAMS.

Section 106 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century is amended—

- (1) by striking “2003” in subsection (a)(1)(A) and subsection (c)(2) and inserting “2006”; and
- (2) by striking “2003.” in subsection (a)(2) and inserting “2006.”.

#### SEC. 106. REORGANIZATION OF THE AIR TRAFFIC SERVICES SUBCOMMITTEE.

(a) IN GENERAL.—Section 106 is amended—

- (1) by redesignating subsections (q) and (r) as subsections (r) and (s), respectively; and
- (2) by inserting after subsection (p) the following:

“(q) AIR TRAFFIC MANAGEMENT COMMITTEE.—

“(1) ESTABLISHMENT.—The Secretary of Transportation shall establish an advisory committee which shall be known as the Air Traffic Services Committee (in this subsection referred to as the ‘Committee’).

“(2) MEMBERSHIP.—

“(A) COMPOSITION AND APPOINTMENT.—The Committee shall be composed of—

“(i) the Administrator of the Federal Aviation Administration, who shall serve as chair; and

“(ii) 4 members, to be appointed by the Secretary, after consultation with the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.

“(B) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under subparagraph (A)(ii) may serve as an officer or employee of the United States Government while serving as a member of the Committee.

“(C) ELIGIBILITY.—Members appointed under subparagraph (A)(ii) shall—

“(i) have a fiduciary responsibility to represent the public interest;

“(ii) be citizens of the United States; and

“(iii) be appointed without regard to political affiliation and solely on the basis of their professional experience and expertise in one or more of the following areas:

“(I) Management of large service organizations.

“(II) Customer service.

“(III) Management of large procurements.

“(IV) Information and communications technology.

“(V) Organizational development.

“(VI) Labor relations.

At least one of such members should have a background in managing large organizations successfully. In the aggregate, such members should collectively bring to bear expertise in all of the areas described in subclauses (I) through (VI).

“(D) PROHIBITIONS ON MEMBERS OF COMMITTEE.—No member appointed under subparagraph (A)(ii) may—

“(i) have a pecuniary interest in, or own stock in or bonds of, an aviation or aeronautical en-

terprise, except an interest in a diversified mutual fund or an interest that is exempt from the application of section 208 of title 18;

“(ii) engage in another business related to aviation or aeronautics; or

“(iii) be a member of any organization that engages, as a substantial part of its activities, in activities to influence aviation-related legislation.

“(E) CLAIMS AGAINST MEMBERS.—

“(i) IN GENERAL.—A member appointed under subparagraph (A)(ii) shall have no personal liability under Federal law with respect to any claim arising out of or resulting from an act or omission by such member within the scope of service as a member of the Air Traffic Services Committee.

“(ii) EFFECT ON OTHER LAW.—This subparagraph shall not be construed—

“(I) to affect any other immunity or protection that may be available to a member of the Committee under applicable law with respect to such transactions;

“(II) to affect any other right or remedy against the United States under applicable law; or

“(III) to limit or alter in any way the immunities that are available under applicable law for Federal officers and employees.

“(F) ETHICAL CONSIDERATIONS.—

“(i) FINANCIAL DISCLOSURE.—During the entire period that an individual appointed under subparagraph (A)(ii) is a member of the Committee, such individual shall be treated as serving as an officer or employee referred to in section 101(f) of the Ethics in Government Act of 1978 for purposes of title I of such Act; except that section 101(d) of such Act shall apply without regard to the number of days of service in the position.

“(ii) RESTRICTIONS ON POST-EMPLOYMENT.—For purposes of section 207(c) of title 18, an individual appointed under subparagraph (A)(ii) shall be treated as an employee referred to in section 207(c)(2)(A)(i) of such title during the entire period the individual is a member of the Committee; except that subsections (c)(2)(B) and (f) of section 207 of such title shall not apply.

“(G) TERMS FOR AIR TRAFFIC SERVICES COMMITTEE MEMBERS.—A member appointed under subparagraph (A)(ii) shall be appointed for a term of 5 years.

“(H) REAPPOINTMENT.—An individual may not be appointed under subparagraph (A)(ii) to more than two 5-year terms.

“(I) VACANCY.—Any vacancy on the Committee shall be filled in the same manner as the original appointment. Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

“(J) CONTINUATION IN OFFICE.—A member whose term expires shall continue to serve until the date on which the member's successor takes office.

“(K) REMOVAL.—Any member appointed under subparagraph (A)(ii) may be removed for cause by the Secretary.

“(3) GENERAL RESPONSIBILITIES.—

“(A) OVERSIGHT.—The Committee shall oversee the administration, management, conduct, direction, and supervision of the air traffic control system.

“(B) CONFIDENTIALITY.—The Committee shall ensure that appropriate confidentiality is maintained in the exercise of its duties.

“(4) SPECIFIC RESPONSIBILITIES.—The Committee shall have the following specific responsibilities:

“(A) STRATEGIC PLANS.—To review, approve, and monitor the strategic plan for the air traffic control system, including the establishment of—

“(i) a mission and objectives;

“(ii) standards of performance relative to such mission and objectives, including safety, efficiency, and productivity; and

“(iii) annual and long-range strategic plans.

“(B) MODERNIZATION AND IMPROVEMENT.—To review and approve—

“(i) methods to accelerate air traffic control modernization and improvements in aviation safety related to air traffic control; and

“(ii) procurements of air traffic control equipment in excess of \$100,000,000.

“(C) OPERATIONAL PLANS.—To review the operational functions of the air traffic control system, including—

“(i) plans for modernization of the air traffic control system;

“(ii) plans for increasing productivity or implementing cost-saving measures; and

“(iii) plans for training and education.

“(D) MANAGEMENT.—To—

“(i) review and approve the Administrator's appointment of a Chief Operating Officer under section 106(s);

“(ii) review the Administrator's selection, evaluation, and compensation of senior executives of the Administration who have program management responsibility over significant functions of the air traffic control system;

“(iii) review and approve the Administrator's plans for any major reorganization of the Administration that would impact on the management of the air traffic control system;

“(iv) review and approve the Administrator's cost accounting and financial management structure and technologies to help ensure efficient and cost-effective air traffic control operation; and

“(v) review the performance and compensation of managers responsible for major acquisition projects, including the ability of the managers to meet schedule and budget targets.

“(E) BUDGET.—To—

“(i) review and approve the budget request of the Administration related to the air traffic control system prepared by the Administrator;

“(ii) submit such budget request to the Secretary; and

“(iii) ensure that the budget request supports the annual and long-range strategic plans.

“(5) CONGRESSIONAL REVIEW OF PRE-OMB BUDGET REQUEST.—The Secretary shall submit the budget request referred to in paragraph (4)(E)(ii) for any fiscal year to the President who shall transmit such request, without revision, to the Committees on Transportation and Infrastructure and Appropriations of the House of Representatives and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate, together with the President's annual budget request for the Federal Aviation Administration for such fiscal year.

“(6) COMMITTEE PERSONNEL MATTERS.—

“(A) COMPENSATION OF MEMBERS.—Each member of the Committee, other than the chair, shall be compensated at a rate of \$25,000 per year.

“(B) STAFF.—The chair of the Committee may appoint and terminate any personnel that may be necessary to enable the Committee to perform its duties.

“(C) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The chair of the Committee may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

“(7) ADMINISTRATIVE MATTERS.—

“(A) POWERS OF CHAIR.—Except as otherwise provided by a majority vote of the Committee, the powers of the chair shall include—

“(i) establishing subcommittees;

“(ii) setting meeting places and times;

“(iii) establishing meeting agendas; and

“(iv) developing rules for the conduct of business.

“(B) MEETINGS.—The Committee shall meet at least quarterly and at such other times as the chair determines appropriate.

“(C) QUORUM.—Three members of the Committee shall constitute a quorum. A majority of members present and voting shall be required for the Committee to take action.

“(D) APPLICATION OF SUBSECTION (p) PROVISIONS.—The following provisions of subsection

(p) apply to the Committee to the same extent as they apply to the Management Advisory Council:

“(i) Paragraph (4)(C) (relating to access to documents and staff).

“(ii) Paragraph (5) (relating to nonapplication of Federal Advisory Committee Act).

“(iii) Paragraph (6)(G) (relating to travel and per diem).

“(iv) Paragraph (6)(H) (relating to detail of personnel).

“(8) ANNUAL REPORT.—The Committee shall each year report with respect to the conduct of its responsibilities under this title to the Administrator, the Management Advisory Council, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.”.

(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 106 is amended—

(A) by striking “18” in paragraph (2) and inserting “13”;

(B) by inserting “and” after the semicolon in subparagraph (C) of paragraph (2);

(C) by striking “Transportation; and” in subparagraph (D) of paragraph (2) and inserting “Transportation.”;

(D) by striking subparagraph (E) of paragraph (2);

(E) by striking paragraph (3) and inserting the following:

“(3) NO FEDERAL OFFICER OR EMPLOYEE.—No member appointed under paragraph (2)(C) may serve as an officer or employee of the United States Government while serving as a member of the Council.”.

(F) by striking subparagraphs (C), (D), (H), and (I) of paragraph (6) and redesignating subparagraphs (E), (F), (G), (J), (K), and (L) as subparagraphs (C), (D), (E), (F), (G), and (H), respectively; and

(G) by striking paragraphs (7) and (8).

(2) Section 106(s) (as redesignated by subsection (a) of this section) is amended—

(A) by striking “Air Traffic Services Subcommittee of the Aviation Management Advisory Council.” and inserting “Air Traffic Services Committee.” in paragraphs (1)(A) and (2)(A); and

(B) by striking “Air Traffic Services Subcommittee of the Aviation Management Advisory Council,” and inserting “Air Traffic Services Committee.” in paragraph (3).

(3) Section 106 is amended by adding at the end the following:

“(t) AIR TRAFFIC CONTROL SYSTEM DEFINED.—In this section, the term ‘air traffic control system’ has the meaning such term has under section 40102(a).”.

(c) TRANSITION FROM AIR TRAFFIC SERVICE SUBCOMMITTEE TO AIR TRAFFIC SERVICE COMMITTEE.—

(1) TERMINATION OF MANAGEMENT ADVISORY COUNCIL MEMBERSHIP.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council appointed under section 106(p)(2)(E) of title 49, United States Code, (as such section was in effect on the day before such date of enactment) who is a member of the Council on such date of enactment shall cease to be a member of the Council.

(2) COMMENCEMENT OF MEMBERSHIP ON AIR TRAFFIC SERVICES COMMITTEE.—Effective on the day after the date of enactment of this Act, any member of the Management Advisory Council whose membership is terminated by paragraph (1) shall become a member of the Air Traffic Services Committee as provided by section 106(q)(2)(G) of title 49, United States Code, to serve for the remainder of the term to which that member was appointed to the Council.

SEC. 107. CLARIFICATION OF RESPONSIBILITIES OF CHIEF OPERATING OFFICER.

Section 106(s) (as redesignated by section 106(a)(1) of this Act) is amended—

(1) by striking “Transportation and Congress” in paragraph (4) and inserting “Trans-

portation, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate.”;

(2) by striking “develop a strategic plan of the Administration for the air traffic control system, including the establishment of—” in paragraph (5)(A) and inserting “implement the strategic plan of the Administration for the air traffic control system in order to further—”;

(3) by striking “To review the operational functions of the Administration,” in paragraph (5)(B) and inserting “To oversee the day-to-day operational functions of the Administration for air traffic control.”;

(4) by striking “system prepared by the Administrator,” in paragraph (5)(C)(i) and inserting “system.”;

(5) by striking “Administrator and the Secretary of Transportation,” in paragraph (5)(C)(ii) and inserting “Administrator.”; and

(6) by striking paragraph (5)(C)(iii) and inserting the following:

“(iii) ensure that the budget request supports the agency's annual and long-range strategic plans for air traffic control services.”.

SEC. 108. WHISTLE-BLOWER PROTECTION UNDER ACQUISITION MANAGEMENT SYSTEM.

Section 40110(d)(2)(C) is amended by striking “355.” and inserting “355), except for section 315 (41 U.S.C. 265). For the purpose of applying section 315 of that Act to the system, the term ‘executive agency’ is deemed to refer to the Federal Aviation Administration.”.

## TITLE II—AIRPORT DEVELOPMENT

SEC. 201. NATIONAL CAPACITY PROJECTS.

(a) IN GENERAL.—Part B of subtitle VII is amended by adding at the end the following:

### “CHAPTER 477. NATIONAL CAPACITY PROJECTS

“47701. Capacity enhancement.

“47702. Designation of national capacity projects.

“47703. Expedited coordinated environmental review process; project coordinators and environment impact teams.

“47704. Compatible land use initiative for national capacity projects.

“47705. Air traffic procedures at national capacity projects.

“47706. Pilot program for environmental review at national capacity projects.

“47707. Definitions.

### “§47701. Capacity enhancement

“(a) IN GENERAL.—Within 30 days after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Secretary of Transportation shall identify those airports among the 31 airports covered by the Federal Aviation Administration's Airport Capacity Benchmark Report 2001 with delays that significantly affect the national air transportation system.

“(b) TASK FORCE; CAPACITY ENHANCEMENT STUDY.—

“(1) IN GENERAL.—The Secretary shall direct any airport identified by the Secretary under subsection (a) that is not engaged in a runway expansion process and has not initiated a capacity enhancement study (or similar capacity assessment) since 1996—

“(A) to establish a delay reduction task force to study means of increasing capacity at the airport, including air traffic, airline scheduling, and airfield expansion alternatives; or

“(B) to conduct a capacity enhancement study.

“(2) SCOPE.—The scope of the study shall be determined by the airport and the Federal Aviation Administration, and where appropriate shall consider regional capacity solutions.

“(3) RECOMMENDATIONS SUBMITTED TO SECRETARY.—

“(A) TASK FORCE.—A task force established under this subsection shall submit a report containing its findings and conclusions, together

with any recommendations for capacity enhancement at the airport, to the Secretary within 9 months after the task force is established.

“(B) CES.—A capacity enhancement study conducted under this subsection shall be submitted, together with its findings and conclusions, to the Secretary as soon as the study is completed.

“(C) RUNWAY EXPANSION AND RECONFIGURATION.—If the report or study submitted under subsection (b)(3) includes a recommendation for the construction or reconfiguration of runways at the airport, then the Secretary and the airport shall complete the planning and environmental review process within 5 years after report or study is submitted to the Secretary. The Secretary may extend the 5-year deadline under this subsection for up to 1 year if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension.

“(D) AIRPORTS THAT DECLINE TO UNDERTAKE EXPANSION PROJECTS.—

“(1) IN GENERAL.—If an airport at which the construction or reconfiguration of runways is recommended does not take action to initiate a planning and environmental assessment process for the construction or reconfiguration of those runways within 30 days after the date on which the report or study is submitted to the Secretary, then—

“(A) the airport shall be ineligible for planning and other expansion funds under subchapter I of chapter 471, notwithstanding any provision of that subchapter to the contrary; and

“(B) no passenger facility fee may be approved at that airport during the 5-year period beginning 30 days after the date on which the report or study is submitted to the Secretary, for—

“(i) projects that, but for subparagraph (A), could have been funded under chapter 471; or

“(ii) any project other than on-airport airfield-side capacity or safety-related projects.

“(2) SAFETY-RELATED AND ENVIRONMENTAL PROJECTS EXCEPTED.—Paragraph (1) does not apply to the use of funds for safety-related, security, or environment projects.

“(E) AIRPORTS THAT TAKE ACTION.—The Secretary shall take all actions possible to expedite funding and provide options for funding to any airport undertaking runway construction or reconfiguration projects in response to recommendations by its task force.

#### “§47702. Designation of national capacity projects

“(a) IN GENERAL.—In response to a petition from an airport sponsor, or in the case of an airport on the list of airports covered by the Federal Aviation Administration's Airport Capacity Benchmarks study, the Secretary of Transportation may designate an airport development project as a national capacity project if the Secretary determines that the project to be designated will significantly enhance the capacity of the national air transportation system.

“(b) DESIGNATION TO REMAIN IN EFFECT FOR 5 YEARS.—The designation of a project as a national capacity project under paragraph (1) shall remain in effect for 5 years. The Secretary may extend the 5-year period for up to 2 additional years upon request if the Secretary finds that substantial progress is being made toward completion of the project.

#### “§47703. Expedited coordinated environmental review process; project coordinators and environment impact teams

“(a) IN GENERAL.—The Secretary of Transportation shall implement an expedited coordinated environmental review process for national capacity projects that—

“(1) provides for better coordination among the Federal, regional, State, and local agencies

concerned with the preparation of environmental impact statements or environmental assessments under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

“(2) provides for an expedited and coordinated process in the conduct of environmental reviews that ensures that, where appropriate, the reviews are done concurrently and not consecutively; and

“(3) provides for a date certain for completing all environmental reviews.

“(b) HIGH PRIORITY FOR AIRPORT ENVIRONMENTAL REVIEWS.—Each department and agency of the United States Government with jurisdiction over environmental reviews shall accord any such review involving a national capacity project the highest possible priority and conduct the review expeditiously. If the Secretary finds that any such department or agency is not complying with the requirements of this subsection, the Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure immediately.

“(c) PROJECT COORDINATORS; EIS TEAMS.—

“(1) DESIGNATION.—For each project designated by the Secretary as a national capacity project under subsection (a) for which an environmental impact statement or environmental assessment must be filed, the Secretary shall—

“(A) designate a project coordinator within the Department of Transportation; and

“(B) establish an environmental impact team within the Department.

“(2) FUNCTION.—The project coordinator and the environmental impact team shall—

“(A) coordinate the activities of all Federal, State, and local agencies involved in the project;

“(B) to the extent possible, working with Federal, State and local officials, reduce and eliminate duplicative and overlapping Federal, State, and local permit requirements;

“(C) to the extent possible, eliminate duplicate Federal, State, and local environmental review procedures; and

“(D) provide direction for compliance with all applicable Federal, State, and local environmental requirements for the project.

#### “§47704. Compatible land use initiative for national capacity projects

“(a) IN GENERAL.—The Secretary of Transportation may make grants under chapter 471 to States and units of local government for land use compatibility plans directly related to national capacity projects for the purposes of making the use of land areas around the airport compatible with aircraft operations if the land use plan or project meets the requirements of this section.

“(b) CONDITIONS.—A land use plan or project meets the requirements of this section if it—

“(1) is sponsored by the public agency that has the authority to plan and adopt land use control measures, including zoning, in the planning area in and around the airport and that agency provides written assurances to the Secretary that it will work with the affected airport to identify and adopt such measures;

“(2) does not duplicate, and is not inconsistent with, an airport noise compatibility program prepared by an airport owner or operator under chapter 475 or with other planning carried out by the airport;

“(3) is subject to an agreement between the public agency sponsor and the airport owner or operator that the development of the land use compatibility plan will be done cooperatively;

“(4) is consistent with the airport operation and planning, including the use of any noise exposure contours on which the land use compatibility planning or project is based; and

“(5) has been approved jointly by the airport owner or operator and the public agency sponsor.

“(c) ASSURANCES FROM SPONSORS.—The Secretary may require the airport sponsor, public agency, or other entity to which a grant may be

awarded under this section to provide such additional assurances, progress reports, and other information as the Secretary determines to be necessary to carry out this section.

#### “§47705. Air traffic procedures at national capacity projects

“(a) IN GENERAL.—The Secretary of Transportation may consider prescribing flight procedures to avoid or minimize potentially significant adverse noise impacts of the project during the environmental planning process for a national capacity project that involves the construction of new runways or the reconfiguration of existing runways. If the Secretary determines that noise mitigation flight procedures are consistent with safe and efficient use of the navigable airspace, then, at the request of the airport sponsor, the Administrator may, in a manner consistent with applicable Federal law, commit to prescribing such procedures in any record of decision approving the project.

“(b) MODIFICATION.—Notwithstanding any commitment by the Secretary under subsection (a), the Secretary may initiate changes to such procedures if necessary to maintain safety and efficiency in light of new information or changed circumstances.

#### “§47706. Pilot program for environmental review at national capacity projects

“(a) IN GENERAL.—The Secretary of Transportation shall initiate a 5-year pilot program funded by airport sponsors—

“(1) to hire additional fulltime-equivalent environmental specialists and attorneys; or

“(2) to obtain the services of such specialists and attorneys from outside the United States Government, to assist in the provision of an appropriate nationwide level of staffing for planning and environmental review of runway development projects for national capacity projects at the Federal Aviation Administration.

“(b) ELIGIBLE PARTICIPANTS.—Participation in the pilot program shall be available, on a voluntary basis, to airports with an annual passenger enplanement of not less than 3 million passengers. The Secretary shall specify the minimum contribution necessary to qualify for participation in the pilot program, which shall be not less than the amount necessary to compensate the Department of Transportation for the expense of a fulltime equivalent environmental specialist and attorney qualified at the GS-14 equivalent level.

“(c) RETENTION OF REVENUES.—The salaries and expenses account of the Federal Aviation Administration shall retain as an offsetting collection such sums as may be necessary from such proceeds for the costs of developing and implementing the program required by subsection (a). Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Such offsetting collections are authorized to remain available until expended for such purpose.

#### “§47707. Definitions

“In this chapter:

“(1) NATIONAL CAPACITY PROJECT.—The term ‘national capacity project’ means a project designated by the Secretary under section 44702.

“(2) OTHER TERMS.—The definitions in section 47102 apply to any terms used in this chapter that are defined in that section.”

(b) ADDITIONAL STAFF AUTHORIZED.—The Secretary of Transportation is authorized to hire additional environmental specialists and attorneys needed to process environmental impact statements in connection with airport construction projects and to serve as project coordinators and environmental impact team members under section 47703 of title 49, United States Code.

(c) CLERICAL AMENDMENT.—The analysis for subtitle VII is amended by inserting after the item relating to section 475 the following:

“477. National capacity projects ..... 47701”.

**SEC. 202. CATEGORICAL EXCLUSIONS.**

Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall report to the Senate Committee on Commerce, Science, and Transportation on the categorical exclusions currently recognized and provide a list of proposed additional categorical exclusions from the requirement that an environmental assessment or an environmental impact statement be prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for projects at airports. In determining the list of additional proposed categorical exclusions, the Secretary shall include such other projects as the Secretary determines should be categorically excluded in order to ensure that Department of Transportation environmental staff resources are not diverted to lower priority tasks and are available to expedite the environmental reviews of airport capacity enhancement projects at congested airports.

**SEC. 203. ALTERNATIVES ANALYSIS.**

(a) **NOTICE REQUIREMENT.**—Not later than 30 days after the date on which the Secretary of Transportation identifies an airport capacity enhancement project at a congested airport under section 47171(c) of title 49, United States Code, the Secretary shall publish a notice in the Federal Register requesting comments on whether reasonable alternatives exist to the project.

(b) **CERTAIN REASONABLE ALTERNATIVES DEFINED.**—For purposes of this section, an alternative shall be considered reasonable if—

(1) the alternative does not create an unreasonable burden on interstate commerce, the national aviation system, or the navigable airspace;

(2) the alternative is not inconsistent with maintaining the safe and efficient use of the navigable airspace;

(3) the alternative does not conflict with a law or regulation of the United States;

(4) the alternative would result in at least the same reduction in congestion at the airport or in the national aviation system as the proposed project; and

(5) in any case in which the alternative is a proposed construction project at an airport other than a congested airport, firm commitments to provide such alternate airport capacity exists, and the Secretary determines that such alternate airport capacity will be available no later than 4 years after the date of the Secretary's determination under this section.

(c) **COMMENT PERIOD.**—The Secretary shall provide a period of 60 days for comments on a project identified by the Secretary under this section after the date of publication of notice with respect to the project.

(d) **DETERMINATION OF EXISTENCE OF REASONABLE ALTERNATIVES.**—Not later than 90 days after the last day of a comment period established under subsection (c) for a project, the Secretary shall determine whether reasonable alternatives exist to the project. The determination shall be binding on all persons, including Federal and State agencies, acting under or applying Federal laws when considering the availability of alternatives to the project.

(e) **LIMITATION ON APPLICABILITY.**—This section does not apply to—

(1) any alternatives analysis required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(2) a project at an airport if the airport sponsor requests, in writing, to the Secretary that this section not apply to the project.

**SEC. 204. INCREASE IN APPORTIONMENT FOR, AND FLEXIBILITY OF, NOISE COMPATIBILITY PLANNING PROGRAMS.**

Section 47117(e)(1)(A) is amended—

(1) by striking the first sentence and inserting: "At least 35 percent for grants for airport noise compatibility planning under section 47505(a)(2) for a national capacity project, for carrying out noise compatibility programs under section 47504(c) of this title, and for noise mitigation

projects approved in an environmental record of decision for an airport development project designated as a national capacity project under section 47702."; and

(2) by striking "or not such 34 percent requirement" in the second sentence and inserting "the funding level required by the preceding sentence".

**SEC. 205. SECRETARY OF TRANSPORTATION TO IDENTIFY AIRPORT CONGESTION-RELIEF PROJECTS.**

(a) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, the Secretary of Transportation shall provide to the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure—

(1) a list of planned air traffic and airport-capacity projects at congested airport capacity benchmark airports the completion of which will substantially relieve congestion at those airports; and

(2) a list of options for expanding capacity at the 8 airports on the list at which the most severe delays are occurring.

(b) **2-YEAR UPDATE.**—The Secretary shall provide updated lists under subsection (a) to the Committees 2 years after the date of enactment of this Act.

(c) **DELISTING OF PROJECTS.**—The Secretary shall remove a project from the list provided to the Committees under this section upon the request, in writing, of an airport operator if the operator states in the request that construction of the project will not be completed within 10 years from the date of the request.

**SEC. 206. DESIGN-BUILD CONTRACTING.**

(a) **IN GENERAL.**—Subchapter I of chapter 471 is amended by adding at the end the following:

**"§ 47138. Design-build contracting**

"(a) **IN GENERAL.**—The Administrator may approve an application of an airport sponsor under this section to authorize the airport sponsor to award a design-build contract using a selection process permitted under applicable State or local law if—

"(1) the Administrator approves the application using criteria established by the Administrator;

"(2) the design-build contract is in a form that is approved by the Administrator;

"(3) the Administrator is satisfied that the contract will be executed pursuant to competitive procedures and contains a schematic design adequate for the Administrator to approve the grant;

"(4) use of a design-build contract will be cost effective and expedite the project;

"(5) the Administrator is satisfied that there will be no conflict of interest; and

"(6) the Administrator is satisfied that the selection process will be as open, fair, and objective as the competitive bid system and that at least three or more bids will be submitted for each project under the selection process.

"(b) **REIMBURSEMENT OF COSTS.**—The Administrator may reimburse an airport sponsor for design and construction costs incurred before a grant is made pursuant to this section if the project is approved by the Administrator in advance and is carried out in accordance with all administrative and statutory requirements that would have been applicable under this chapter 471, if the project were carried out after a grant agreement had been executed.

"(c) **DESIGN-BUILD CONTRACT DEFINED.**—In this section, the term 'design-build contract' means an agreement that provides for both design and construction of a project by a contractor."

(b) **CONFORMING AMENDMENT.**—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47137 the following:

"47138. Design-build contracting."

**SEC. 207. SPECIAL RULE FOR AIRPORT IN ILLINOIS.**

(a) **IN GENERAL.**—Nothing in this title shall be construed to preclude the application of any provision of this Act to the State of Illinois or any other sponsor of a new airport proposed to be constructed in the State of Illinois.

(b) **AUTHORITY OF THE GOVERNOR.**—Nothing in this title shall be construed to preempt the authority of the Governor of the State of Illinois as of August 1, 2001, to approve or disapprove airport development projects.

**SEC. 208. ELIMINATION OF DUPLICATIVE REQUIREMENTS.**

(a) **IN GENERAL.**—Section 47106(c)(1) is amended—

(1) by inserting "and" after "project;" in subparagraph (A)(ii);

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) **CONFORMING AMENDMENTS.**—Section 47106(c) of such title is amended—

(1) by striking paragraph (4);

(2) by redesignating paragraph (5) as paragraph (4); and

(3) by striking "(1)(C)" in paragraph (4), as redesignated, and inserting "(1)(B)".

**SEC. 209. STREAMLINING THE PASSENGER FACILITY FEE PROGRAM.**

Section 40117 is amended—

(1) by striking from "finds—" in paragraph (4) of subsection (b) through the end of that paragraph and inserting "finds that the project cannot be paid for from funds reasonably expected to be available for the programs referred to in section 48103."; and

(2) by adding at the end of subsection (c)(2) the following:

"(E) The agency will include in its application or notice submitted under subsection (1) copies of all certifications of agreement or disagreement received under subparagraph (D).

"(F) For the purpose of this section, an eligible agency providing notice and consultation to an air carrier and foreign air carrier is deemed to have satisfied this requirement if it limits such notices and consultations to air carriers and foreign air carriers that have a significant business interest on the airport. In developing regulations to implement this provision, the Secretary shall consider a significant business interest to be defined as an air carrier or foreign air carrier that has no less than 1.0 percent of boardings at the airport in the prior calendar year, except that no air carrier or foreign air carrier may be considered excluded under this section if it has at least 25,000 boardings at the airport in the prior calendar year, or if it operates scheduled service, without regard to such percentage requirements."

(3) by redesignating paragraph (3) of subsection (c) as paragraph (4) and inserting after paragraph (2) the following:

"(3) Before submitting an application, the eligible agency must provide reasonable notice and an opportunity for public comment. The Secretary shall prescribe regulations that define reasonable notice and provide for at least—

"(A) a requirement that the eligible agency provide public notice of intent to collect a passenger facility fee so as to inform those interested persons and agencies who may be affected, including—

"(i) publication in local newspapers of general circulation;

"(ii) publication in other local media; and

"(iii) posting the notice on the agency's website;

"(B) a requirement for submission of public comments no sooner than 30 days after publishing of the notice and not later than 45 days after publication; and

"(C) a requirement that the agency include in its application or notice submitted under paragraph (1) copies of all comments received under subparagraph (B)."

(4) by striking "shall" in the first sentence of paragraph (4), as redesignated, of subsection (c) and inserting "may"; and

(5) by adding at the end the following:

“(f) PILOT PROGRAM FOR PASSENGER FACILITY FEE AUTHORIZATIONS AT SMALL AIRPORTS.—

“(1) There is established a pilot program for the Secretary to test alternative procedures for authorizing small airports to impose passenger facility fees. An eligible agency may impose a passenger facility fee at a nonhub airport (as defined in section 41762(11) of this title) that it controls for use on eligible airport-related projects at that airport, in accordance with the provisions of this subsection. These procedures shall be in lieu of the procedures otherwise specified in this section.

“(2) The eligible agency must provide reasonable notice and an opportunity for consultation to air carriers and foreign air carriers in accordance with subsection (c)(2), and must provide reasonable notice and opportunity for public comment in accordance with subsection (c)(3).

“(3) The eligible agency must submit to the Secretary a notice of intention to impose a passenger facility fee, which notice shall include—

“(A) information that the Secretary may require by regulation on each project for which authority to impose a passenger facility charge is sought;

“(B) the amount of revenue from passenger facility charges that is proposed to be collected for each project; and

“(C) the level of the passenger facility charge that is proposed.

“(4) The Secretary shall acknowledge receipt of the notice and indicate any objection to the imposition of a passenger facility fee for any project identified in the notice within 30 days after receipt of the eligible agency's notice.

“(5) Unless the Secretary objects within 30 days after receipt of the eligible agency's notice, the eligible agency is authorized to impose a passenger facility fee in accordance with the terms of its notice.

“(6) Not later than 180 days after the date of enactment of this subsection, the Secretary shall propose such regulations as may be necessary to carry out this subsection.

“(7) The authority granted under this subsection shall expire three years after the issuance of the regulation required by paragraph (6).

“(8) An acknowledgement issued under paragraph (4) shall not be considered an order of the Secretary issued under section 46110 of this title.”

#### SEC. 210. QUARTERLY STATUS REPORTS.

Beginning with the second calendar quarter ending after the date of enactment of this Act, the Secretary of Transportation shall provide quarterly status reports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of construction of each major runway project undertaken at the largest 40 commercial airports in terms of annual enplanements.

#### SEC. 211. NOISE DISCLOSURE.

(a) NOISE DISCLOSURE SYSTEM IMPLEMENTATION STUDY.—The Administrator of the Federal Aviation Administration shall conduct a study to determine the feasibility of developing a program under which prospective home buyers of property located in the vicinity of an airport could be notified of information derived from noise exposure maps that may affect the use and enjoyment of the property. The study shall assess the scope, administration, usefulness, and burdensomeness of any such program, and the costs and benefits of such a program, and whether participation in such a program should be voluntary or mandatory.

(b) PUBLIC AVAILABILITY OF NOISE EXPOSURE MAPS.—The Federal Aviation Administration shall make copies or facsimiles of noise exposure maps available to the public via the Internet on its website in an appropriate format.

(c) NOISE EXPOSURE MAP.—In this section, the term “noise exposure map” means a noise expo-

sure map prepared under section 47503 of title 49, United States Code.

#### SEC. 212. PROHIBITION ON REQUIRING AIRPORTS TO PROVIDE RENT-FREE SPACE FOR FAA OR TSA.

(a) IN GENERAL.—Chapter 401 is amended by adding at the end the following:

##### “§40129. Prohibition on rent-free space requirements for FAA or TSA

“(a) IN GENERAL.—Neither the Secretary of Transportation nor the Secretary of Homeland Security may require airport sponsors to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost for services relating to air traffic control, air navigation, aviation security, or weather reporting.

“(b) NEGOTIATED AGREEMENTS.—Subsection (a) does not prohibit—

“(1) the negotiation of agreements between either Secretary and an airport sponsor to provide building construction, maintenance, utilities and expenses, or space in airport sponsor-owned buildings to the Federal Aviation Administration or the Transportation Security Administration without cost or at below-market rates; or

“(2) either Secretary from requiring airport sponsors to provide land without cost to the Federal Aviation Administration for air traffic control facilities or space without cost to the Transportation Security Administration for necessary security checkpoints.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 401 is amended by adding at the end the following:

“40129. Prohibition on rent-free space requirements for FAA or TSA.”

#### SEC. 213. SPECIAL RULES FOR FISCAL YEAR 2004.

(a) APPORTIONMENT TO CERTAIN AIRPORTS WITH DECLINING BOARDINGS.—

(1) IN GENERAL.—For fiscal year 2004, the Secretary of Transportation may apportion funds under section 47114 of title 49, United States Code, to the sponsor of an airport described in paragraph (2) in an amount equal to the amount apportioned to that airport under that section for fiscal year 2002, notwithstanding any provision of section 47114 to the contrary.

(2) AIRPORTS TO WHICH PARAGRAPH (1) APPLIES.—Paragraph (1) applies to any airport determined by the Secretary to have had—

(A) less than 0.05 percent of the total United States passenger boardings (as defined in section 47102(10) of title 49, United States Code) for the calendar year used for determining apportionments under section 47114 for fiscal year 2004;

(B) less than 10,000 passenger boardings in calendar year 2002; and

(C) 10,000 or more passenger boardings in calendar year 2000.

(b) TEMPORARY INCREASE IN GOVERNMENT SHARE OF CERTAIN AIP PROJECT COSTS.—Notwithstanding section 47109(a) of title 49, United States Code, the Government's share of allowable project costs for a grant made in fiscal year 2004 under chapter 471 of that title for a project described in paragraph (2) or (3) of that section shall be 95 percent.

#### SEC. 214. AGREEMENTS FOR OPERATION OF AIRPORT FACILITIES.

Section 47124 is amended—

(1) by inserting “a qualified entity or” after “with” in subsection (a);

(2) by inserting “entity or” after “allow the” in subsection (a);

(3) by inserting “entity or” before “State” the last place it appears in subsection (a);

(4) by striking “contract,” in subsection (b)(2) and inserting “contract with a qualified entity, or”;

(5) by striking “the State” each place it appears in subsection (b)(2) and inserting “the entity or State”;

(6) by striking “PILOT” in the caption of subsection (b)(3);

(7) by striking “pilot” in subsection (b)(3)(A); (8) by striking “pilot” in subsection (b)(3)(D); (9) by striking “\$6,000,000 per fiscal year” in subsection (b)(3)(E) and inserting “\$6,500,000 for fiscal year 2004, \$7,000,000 for fiscal year 2005, and \$7,500,000 for fiscal year 2006”; and

(10) by striking “\$1,100,000.” in subsection (b)(4)(C) and inserting “\$1,500,000.”

#### SEC. 215. PUBLIC AGENCIES.

Section 47102(15) is amended—

(1) by striking “or” after the semicolon in subparagraph (B);

(2) by redesignating subparagraph (C) as subparagraph (D); and

(3) by inserting after subparagraph (B) the following:

“(C) the Department of the Interior with respect to an airport owned by the Department that is required to be maintained for commercial aviation safety at a remote location; or”

#### SEC. 216. FLEXIBLE FUNDING FOR NONPRIMARY AIRPORT APPORTIONMENTS.

(a) IN GENERAL.—Section 47117(c)(2) is amended to read as follows:

“(2) WAIVER.—A sponsor of an airport may make an agreement with the Secretary of Transportation waiving the sponsor's claim to any part of the amount apportioned for the airport under sections 47114(c) and 47114(d)(2)(A) of this title if the Secretary agrees to make the waived amount available for a grant for another public-use airport in the same State or geographical area as the airport, as determined by the Secretary.”

(b) CONFORMING AMENDMENTS.—

(1) Section 47108(a) is amended by inserting “or section 47114(d)(2)(A)” after “under section 47114(c)”.

(2) Section 47110 is amended—

(A) by inserting “or section 47114(d)(2)(A)” in subsection (b)(2)(C) after “of section 47114(c)”;

(B) by inserting “or section 47114(d)(2)(A)” in subsection (g) after “of section 47114(c)”;

(C) by striking “of project.” in subsection (g) and inserting “of the project.”; and

(D) by adding at the end the following:

“(h) NONPRIMARY AIRPORTS.—The Secretary may decide that the costs of revenue producing aeronautical support facilities, including fuel farms and hangars, are allowable for an airport development project at a nonprimary airport and for which the Government's share is paid only with funds apportioned to a sponsor under section 47114(d)(3)(A), if the Secretary determines that the sponsor has made adequate provision for financing airside needs of the airport.”

(3) Section 47119(b) is amended by—

(A) striking “or” after the semicolon in paragraph (3);

(B) striking “1970.” in paragraph (4) and inserting “1970; or”; and

(C) adding at the end the following:

“(5) to a sponsor of a nonprimary airport referred to in subparagraph (A) or (B) paragraph (2), any part of amounts apportioned to the sponsor for the fiscal year under section 47114(d)(3)(A) of this title for project costs allowable under section 47110(d) of this title.”

(c) APPORTIONMENT FOR ALL-CARGO AIRPORTS.—Section 47114(c)(2)(A) is amended by striking “3” and inserting “3.5”.

(d) CONSIDERATIONS FOR CARGO OPERATIONS.—Section 47115(d) is amended—

(1) by striking “and” at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting “; and”; and

(3) by adding at the end the following new paragraph:

“(7) the ability of the project to foster United States competitiveness in securing global air cargo activity at a United States airport.”

(e) TERMINAL DEVELOPMENT COSTS.—Section 47119(a)(1)(C) is amended by striking “3 years” and inserting “1 year”.

#### SEC. 217. SHARE OF AIRPORT PROJECT COSTS.

(a) IN GENERAL.—Section 47109 of title 49, United States Code, is amended by redesignating



subsection (c) as subsection (d) and inserting after subsection (b) the following:

“(C) GRANDFATHER RULE.—

“(1) IN GENERAL.—In the case of any project approved after September 30, 2001, at an airport that has less than .25 percent of the total number of passenger boardings at all commercial service airports, and that is located in a State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) of more than 5 percent of the total area of all lands in the State, the Government's share of allowable costs of the project shall be increased by the same ratio as the basic share of allowable costs of a project divided into the increased (Public Lands States) share of allowable costs of a project as shown on documents of the Federal Aviation Administration dated August 3, 1979, at airports for which the general share was 80 percent on August 3, 1979. This subsection shall apply only if—

“(A) the State contained unappropriated and unreserved public lands and nontaxable Indian lands of more than 5 percent of the total area of all lands in the State on August 3, 1979; and

“(B) the application under subsection (b), does not increase the Government's share of allowable costs of the project

“(2) LIMITATION.—The Government's share of allowable project costs determined under this subsection shall not exceed the lesser of 93.75 percent or the highest percentage Government share applicable to any project in any State under subsection (b).”.

(b) CONFORMING AMENDMENT.—Subsection (a) of Section 47109, title 49, United States Code, is amended by striking “Except as provided in subsection (b)”, and inserting in lieu thereof “Except as provided in subsection (b) or subsection (c)”.

#### SEC. 218. PILOT PROGRAM FOR PURCHASE OF AIRPORT DEVELOPMENT RIGHTS.

(a) IN GENERAL.—Chapter 471 is amended by adding at the end the following:

##### “§47141. Pilot program for purchase of airport development rights.

“(a) IN GENERAL.—The Secretary of Transportation shall establish a pilot program to support the purchase, by a State or political subdivision of a State, of development rights associated with, or directly affecting the use of, privately owned public use airports located in that State. Under the program, the Secretary may make a grant to a State or political subdivision of a State from funds apportioned under section 47114 for the purchase of such rights.

“(b) GRANT REQUIREMENTS.—

“(1) IN GENERAL.—The Secretary may not make a grant under subsection (a) unless the grant is made—

“(A) to enable the State or political subdivision to purchase development rights in order to ensure that the airport property will continue to be available for use as a public airport; and

“(B) subject to a requirement that the State or political subdivision acquire an easement or other appropriate covenant requiring that the airport shall remain a public use airport in perpetuity.

“(2) MATCHING REQUIREMENT.—The amount of a grant under the program may not exceed 90 percent of the costs of acquiring the development rights.

“(c) GRANT STANDARDS.—The Secretary shall prescribe standards for grants under subsection (a), including—

“(1) grant application and approval procedures; and

“(2) requirements for the content of the instrument recording the purchase of the development rights.

“(d) RELEASE OF PURCHASED RIGHTS AND COVENANT.—Any development rights purchased under the program shall remain the property of the State or political subdivision unless the Secretary approves the transfer or disposal of the development rights after making a determina-

tion that the transfer or disposal of that right is in the public interest.

“(e) LIMITATION.—The Secretary may not make a grant under the pilot program for the purchase of development rights at more than 10 airports”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47140 the following:

“47141. Pilot program for purchase of airport development rights”.

#### SEC. 219. GARY/CHICAGO AIRPORT FUNDING.

The Administrator of the Federal Aviation Administration shall, for purposes of chapter 471 of title 49, United States Code, give priority consideration to a letter of intent application for funding submitted by the City of Gary, Indiana, or the State of Indiana, for the extension of the main runway at the Gary/Chicago Airport. The letter of intent application shall be considered upon completion of the environmental impact statement and benefit cost analysis in accordance with Federal Aviation Administration requirements. The Administrator shall consider the letter of intent application not later than 90 days after receiving it from the applicant.

#### SEC. 220. CIVIL PENALTY FOR CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

(a) IN GENERAL.—Chapter 463 is amended by adding at the end the following:

##### “SEC. 46319. CLOSURE OF AN AIRPORT WITHOUT PROVIDING SUFFICIENT NOTICE.

“(a) PROHIBITION.—A public agency (as defined in section 47102) may not close an airport listed in the national plan of integrated airport systems under section 47103 without providing written notice to the Administrator of the Federal Aviation Administration at least 30 days before the date of the closure.

“(b) PUBLICATION OF NOTICE.—The Administrator shall publish each notice received under subsection (a) in the Federal Register.

“(c) CIVIL PENALTY.—A public agency violating subsection (a) shall be liable for a civil penalty of \$10,000 for each day that the airport remains closed without having given the notice required by this section.”.

(b) CONFORMING AMENDMENT.—The analysis for chapter 463 is amended by adding at the end the following:

“46319. Closure of an airport without providing sufficient notice.”.

#### SEC. 221. ANCHORAGE AIR TRAFFIC CONTROL.

(a) IN GENERAL.—Not later than September 30, 2004, the Administrator of the Federal Aviation Administration shall complete a study and transmit a report to the appropriate committees regarding the feasibility of consolidating the Anchorage Terminal Radar Approach Control and the Anchorage Air Route Traffic Control Center at the existing Anchorage Air Route Traffic Control Center facility.

(b) APPROPRIATE COMMITTEES.—In this section, the term “appropriate committees” means the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

### TITLE III—AIRLINE SERVICE DEVELOPMENT

#### Subtitle A—Program Enhancements

##### SEC. 301. DELAY REDUCTION MEETINGS.

(a) IN GENERAL.—Subchapter I of chapter 417 is amended by adding at the end the following new section:

##### “§41723. Delay reduction actions

“(a) DELAY REDUCTION MEETINGS.—

“(1) SCHEDULING REDUCTION MEETINGS.—The Secretary of Transportation may request that air carriers meet with the Administrator of the Federal Aviation Administration to discuss flight reductions at severely congested airports to reduce overscheduling and flight delays during hours of peak operation if—

“(A) the Administrator of the Federal Aviation Administration determines that it is necessary to convene such a meeting; and

“(B) the Secretary determines that the meeting is necessary to meet a serious transportation need or achieve an important public benefit.

“(2) MEETING CONDITIONS.—Any meeting under paragraph (1)—

“(A) shall be chaired by the Administrator;

“(B) shall be open to all scheduled air carriers; and

“(C) shall be limited to discussions involving the airports and time periods described in the Administrator's determination.

“(3) FLIGHT REDUCTION TARGETS.—Before any such meeting is held, the Administrator shall establish flight reduction targets for the meeting and notify the attending air carriers of those targets not less than 48 hours before the meeting.

“(4) DELAY REDUCTION OFFERS.—An air carrier attending the meeting shall make any delay reduction offer to the Administrator rather than to another carrier.

“(5) TRANSCRIPT.—The Administrator shall ensure that a transcript of the meeting is kept and made available to the public not later than 3 business days after the conclusion of the meeting.

“(b) STORMY WEATHER AGREEMENTS LIMITED EXEMPTION.—

“(1) IN GENERAL.—The Secretary may establish a program to authorize by order discussions and agreements between 2 or more air carriers for the purpose of reducing flight delays during periods of inclement weather.

“(2) REQUIREMENTS.—An authorization issued under paragraph (1)—

“(A) may only be issued by the Secretary after a determination by the Federal Aviation Administration that inclement weather is likely to adversely and directly affect capacity at an airport for a period of at least 3 hours;

“(B) shall apply only to discussions and agreements concerning flights directly affected by the inclement weather; and

“(C) shall remain in effect for a period of 24 hours.

“(3) PROCEDURE.—The Secretary shall establish procedures within 30 days after such date of enactment for—

“(A) filing requests for an authorization under paragraph (1);

“(B) participation under paragraph (5) by representatives of the Department of Transportation in any meetings or discussions held pursuant to such an order; and

“(C) the determination by the Federal Aviation Administration about the impact of inclement weather.

“(4) COPY OF PARTICIPATION REQUEST FILED WITH SECRETARY.—Before an air carrier may request an order under paragraph (1), it shall file a request with the Secretary, in such form and manner as the Secretary may prescribe, to participate in the program established under paragraph (1).

“(5) DOT PARTICIPATION.—The Secretary shall ensure that the Department is represented at any meetings authorized under this subsection.

“(c) EXEMPTION AUTHORIZED.—When the Secretary finds that it is required by the public interest, the Secretary, as part of an order issued under subsection (b)(1), shall exempt a person affected by the order from the antitrust laws to the extent necessary to allow the person to proceed with the activities approved in the order.

“(d) ANTITRUST LAWS DEFINED.—In this section, the term ‘antitrust laws’ has the meaning given that term in the first section of the Clayton Act (15 U.S.C. 12).

“(e) SUNSET.—The authority of the Secretary to issue an order under subsection (b)(1) of this section expires at the end of the 2-year period that begins 45 days after the date of enactment of the Aviation Investment and Revitalization Vision Act. The Secretary may extend the 2-year

Period for an additional 2 years if the Secretary determines that such an extension is necessary and in the public interest. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation, and to the House of Representatives Committee on Transportation and Infrastructure of any such extension."

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 41722 the following new item:

"41723. Delay reduction actions."

**SEC. 302. SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.**

(a) 3-YEAR EXTENSION.—Section 41743(e)(2) is amended—

(1) by striking "There is" and inserting "There are";

(2) by striking "2001 and" and inserting "2001,";

(3) by striking "2003" and inserting "2003, and \$27,500,000 for each of fiscal years 2004, 2005, and 2006"; and

(4) by striking "section." and inserting "section, not more than \$275,000 per year of which may be used for administrative costs in fiscal years 2004 through 2006."

(b) ADDITIONAL COMMUNITIES.—Section 41743(c)(4) of such title is amended by striking "program." and inserting "program each year. No community, consortia of communities, nor combination thereof may participate in the program in support of the same project more than once, but any community, consortia of communities, or combination thereof may apply, subsequent to such participation, to participate in the program in support of a different project."

**SEC. 303. DOT STUDY OF COMPETITION AND ACCESS PROBLEMS AT LARGE AND MEDIUM HUB AIRPORTS.**

(a) IN GENERAL.—The Secretary of Transportation shall study competition and airline access problems at hub airports (as defined in section 41731(a)(3)) of title 49, United States Code, and medium hub airports (as defined in section 41714(h)(9) of that title). In the study, the Secretary shall examine, among other matters—

(1) gate usage and availability; and  
(2) the effects of the pricing of gates and other facilities on competition and access.

(b) REPORT.—The Secretary shall transmit a report of the Secretary's findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving competition and airline access at such airports to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act.

**SEC. 304. COMPETITION DISCLOSURE REQUIREMENT FOR LARGE AND MEDIUM HUB AIRPORTS.**

Section 41707 is amended by adding at the end the following:

"(q) COMPETITION DISCLOSURE REQUIREMENT.—

"(1) IN GENERAL.—The Secretary of Transportation may approve an application under this subchapter for an airport development project grant for a hub airport or a medium hub airport only if the Secretary receives assurances that the airport sponsor will provide the information required by paragraph (2) at such time and in such form as the Secretary may require.

"(2) COMPETITIVE ACCESS.—If an airport denies an application by an air carrier to receive access to gates or other facilities at that airport in order to provide service to the airport or to expand service at the airport, then, within 30 days after denying the request, the airport sponsor shall—

"(A) notify the Secretary of the denial; and  
"(B) transmit a report to the Secretary that—  
"(i) describes the request;  
"(ii) explains the reasons for the denial; and

"(iii) provides a time frame within which, if any, the airport will be able to accommodate the request.

"(3) DEFINITIONS.—In this subsection:

"(A) HUB AIRPORT.—The term 'hub airport' has the meaning given that term by section 41731(a)(3).

"(B) MEDIUM HUB AIRPORT.—The term 'medium hub airport' has the meaning given that term by section 41714(h)(9)."

**SEC. 305. LOCATION OF SHUTTLE SERVICE AT RONALD REAGAN WASHINGTON NATIONAL AIRPORT.**

The Airports Authority (as defined in section 49103(1) of title 49, United States Code) shall, in conjunction with the Department of Transportation, conduct a study on the feasibility of housing the gates used by all air carriers providing shuttle service from Ronald Reagan Washington National Airport in the same terminal.

**SEC. 306. AIR CARRIERS REQUIRED TO HONOR TICKETS FOR SUSPENDED SERVICE.**

(a) IN GENERAL.—Section 145(a) of the Aviation and Transportation Security Act of 2001 (49 U.S.C. 40101 note) is amended by adding at the end the following: "The Secretary of Transportation shall give favorable consideration to waiving the terms and conditions established by this section, including those set forth in the guidance provided by the Department in notices, dated August 8, 2002, November 14, 2002, and January 23, 2003, in cases where remaining carriers operate additional flights to accommodate passengers whose service was suspended, interrupted, or discontinued under circumstances described in the preceding sentence over routes located in isolated areas that are unusually dependent on air transportation."

(b) EXTENSION.—Section 145(c) of such Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 36 months after".

**Subtitle B—Small Community and Rural Air Service Revitalization**

**SEC. 351. REAUTHORIZATION OF ESSENTIAL AIR SERVICE PROGRAM.**

Section 41742(a) of title 49, United States Code, is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Transportation to carry out the essential air service under this subchapter, \$113,000,000 for each of fiscal years 2004 through 2007, \$50,000,000 of which for each such year shall be derived from amounts received by the Federal Aviation Administration credited to the account established under section 45303 of this title or otherwise provided to the Administration."

**SEC. 352. INCENTIVE PROGRAM.**

(a) IN GENERAL.—Chapter 417 of title 49, United States Code, is amended by adding at the end the following:

**"SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM**

"Sec. 41781. Purpose.

"Sec. 41782. Marketing program.

"Sec. 41783. State marketing assistance.

"Sec. 41784. Definitions.

"Sec. 41785. Authorization of appropriations.

**"§41781. Purposes**

"The purposes of this subchapter are—

"(1) to enable essential air service communities to increase boardings and the level of passenger usage of airport facilities at an eligible place by providing technical, financial, and other marketing assistance to such communities and to States;

"(2) to reduce subsidy costs under subchapter II of this chapter as a consequence of such increased usage; and

"(3) to provide such communities with opportunities to obtain, retain, and improve transportation services.

**"§41782. Marketing program**

"(a) IN GENERAL.—The Secretary of Transportation shall establish a marketing incentive pro-

gram for communities that receive subsidized service by an air carrier under section 41733 under which the airport sponsor in such a community may receive a grant of not more than \$50,000 to develop and implement a marketing plan to increase passenger boardings and the level of passenger usage of its airport facilities.

"(b) MATCHING REQUIREMENT; SUCCESS BO-

NUSES—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), not less than 25 percent of the publicly financed costs associated with the marketing plan shall come from non-Federal sources. For purposes of this paragraph—

"(A) the non-Federal portion of the publicly financed costs may be derived from contributions in kind; and

"(B) State or local matching contributions may not be derived, directly or indirectly, from Federal funds, but the use by a state or local government of proceeds from the sale of bonds to provide the matching contribution is not considered to be a contribution derived directly or indirectly from Federal funds, without regard to the Federal income tax treatment of interest paid on those bonds or the Federal income tax treatment of those bonds.

"(2) BONUS FOR 25-PERCENT INCREASE IN USAGE.—Except as provided in paragraph (3), if, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 25 percent or more, then only 10 percent of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

"(3) BONUS FOR 50-PERCENT INCREASE IN USAGE.—If, after any 12-month period during which a marketing plan has been in effect, the Secretary determines that the marketing plan has increased average monthly boardings, or the level of passenger usage, at the airport facilities at the eligible place, by 50 percent or more, then no portion of the publicly financed costs associated with the marketing plan shall be required to come from non-Federal sources for the following 12-month period.

**"§41783. State marketing assistance**

"The Secretary of Transportation may provide up to \$50,000 in technical assistance to any State within which an eligible point that receives subsidized service by an air carrier under section 41733 is located for the purpose of assisting the State and such communities to develop methods to increase boardings in such communities. At least 10 percent of the costs of the activity with which the assistance is associated shall come from non-Federal sources, including contributions in kind.

**"§41784. Definitions**

"In this subchapter:

"(1) ELIGIBLE PLACE.—The term 'eligible place' has the meaning given that term in section 41731(a)(1), subject to the provisions of section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

"(2) ELIGIBLE ESSENTIAL AIR SERVICE COMMUNITY.—The term 'eligible essential air service community' means an eligible place that—

"(A) submits an application to the Secretary in such form, at such time, and containing such information as the Secretary may require, including a detailed marketing plan, or specifications for the development of such a plan, to increase average boardings, or the level of passenger usage, at its airport facilities; and

"(B) provides assurances, satisfactory to the Secretary, that it is able to meet the non-Federal funding requirements of section 41782(b)(1).

"(3) PASSENGER BOARDINGS.—The term 'passenger boardings' has the meaning given that term by section 47102(10).

"(4) SPONSOR.—The term 'sponsor' has the meaning given that term in section 47102(19).



**“§ 41785. Authorization of appropriations**

“There are authorized to be appropriated to the Secretary of Transportation \$12,000,000 for each of fiscal years 2004 through 2006, to carry out this subchapter, not more than \$200,000 per year of which may be used for administrative costs.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41767 the following:

“SUBCHAPTER IV—MARKETING INCENTIVE PROGRAM

“41781. Purpose.

“41782. Marketing program.

“41783. State marketing assistance.

“41784. Definitions.

“41785. Authorization of appropriations.”.

**SEC. 353. PILOT PROGRAMS.**

(a) IN GENERAL.—Subchapter II of chapter 417 of title 49, United States Code, is amended by adding at the end the following:

**“§ 41745. Other pilot programs**

“(a) IN GENERAL.—If the entire amount authorized to be appropriated to the Secretary of Transportation by section 41785 is appropriated for fiscal years 2004 through 2007, the Secretary of Transportation shall establish pilot programs that meet the requirements of this section for improving service to communities receiving essential air service assistance under this subchapter or consortia of such communities.

“(b) PROGRAMS AUTHORIZED.—

“(1) COMMUNITY FLEXIBILITY.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which the airport sponsor of an airport serving the community or consortium may elect to forego any essential air service assistance under preceding sections of this subchapter for a 10-year period in exchange for a grant from the Secretary equal in value to twice the annual essential air service assistance received for the most recently ended calendar year. Under the program, and notwithstanding any provision of law to the contrary, the Secretary shall make a grant to each participating sponsor for use by the recipient for any project that—

“(A) is eligible for assistance under chapter 471;

“(B) is located on the airport property; or

“(C) will improve airport facilities in a way that would make such facilities more usable for general aviation.

“(2) EQUIPMENT CHANGES.—

“(A) IN GENERAL.—The Secretary shall establish a pilot program for not more than 10 communities or consortia of communities under which, upon receiving a petition from the sponsor of the airport serving the community or consortium, the Secretary shall authorize and request the essential air service provider for that community or consortium to use smaller equipment to provide the service and to consider increasing the frequency of service using such smaller equipment. Before granting any such petition, the Secretary shall determine that passenger safety would not be compromised by the use of such smaller equipment. Any community that participates in a pilot program under this subparagraph is deemed to have waived the minimum service requirements under section 41732(b) for purposes of its participation in that pilot program.

“(B) ALTERNATIVE SERVICES.—For any 3 airport sponsors participating in the program established under subparagraph (A), the Secretary may establish a pilot program under which—

“(i) the Secretary provides 100 percent Federal funding for reasonable levels of alternative transportation services from the eligible place to the nearest hub airport or small hub airport;

“(ii) the Secretary will authorize the sponsor to use its essential air service subsidy funds provided under preceding sections of this subchapter for any airport-related project that would improve airport facilities; and

“(iii) the sponsor may make an irrevocable election to terminate its participation in the pilot program established under this paragraph after 1 year.

“(3) COST-SHARING.—The Secretary shall establish a pilot program under which the sponsors of airports serving a community or consortium of communities share the cost of providing air transportation service greater than the basic essential air service provided under this subchapter.

“(c) CODE-SHARING.—Under the pilot program established under subsection (a), the Secretary is authorized to require air carriers providing service to participating communities and major air carriers (as defined in section 41716(a)(2)) serving large hub airports (as defined in section 41731(a)(3)) to participate in multiple code-share arrangements consistent with normal industry practice whenever and wherever the Secretary determines that such multiple code-sharing arrangements would improve air transportation services. The Secretary may not require air carriers to participate in such arrangements under this subsection for more than 10 such communities.

“(d) TRACKING SERVICE.—The Secretary shall require carriers providing subsidy for service under section 41733 to track changes in services, including on-time arrivals and departures, on such subsidized routes, and to report such information to the Secretary on a semi-annual basis in such form as the Secretary may require.

“(e) ADMINISTRATIVE PROVISIONS.—In order to participate in a pilot program established under this section, the airport sponsor for a community or consortium of communities shall submit an application to the Secretary in such form, at such time, and containing such information as the Secretary may require.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 of such title is amended by inserting after the item relating to section 41744 the following:

“41745. Other pilot programs.”.

**SEC. 354. EAS PROGRAM AUTHORITY CHANGES.**

(a) RATE RENEGOTIATION.—If the Secretary of Transportation determines that essential air service providers are experiencing significantly increased costs of providing service under subchapter II of chapter 417 of title 49, United States Code, the Secretary of Transportation may increase the rates of compensation payable under that subchapter within 30 days after the date of enactment of this Act without regard to any agreements or requirements relating to the renegotiation of contracts. For purposes of this subsection, the term “significantly increased costs” means an average annual total unit cost increase (but not increases in individual unit costs) of 10 percent or more in relation to the unit rates used to construct the subsidy rate, based on the carrier’s internal audit of its financial statements.

(b) RETURNED FUNDS.—Notwithstanding any provision of law to the contrary, any funds made available under subchapter II of chapter 417 of title 49, United States Code, that are returned to the Secretary by an airport sponsor because of decreased subsidy needs for essential air service under that subchapter shall remain available to the Secretary and may be used by the Secretary under that subchapter to increase the frequency of flights at that airport.

(c) SMALL COMMUNITY AIR SERVICE DEVELOPMENT PILOT PROGRAM.—Section 41743(h) of such title is amended by striking “an airport” and inserting “each airport”.

**SEC. 355. ONE-YEAR EXTENSION OF EAS ELIGIBILITY FOR COMMUNITIES TERMINATED IN 2003 DUE TO DECREASED AIR TRAVEL.**

Notwithstanding the rate of subsidy limitation in section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000, the Secretary of Transportation may not terminate an essential air service subsidy pro-

vided under chapter 417 of title 49, United States Code, before the end of calendar year 2004 for air service to a community—

(1) whose calendar year ridership for 2000 was sufficient to keep the per passenger subsidy below that limitation; and

(2) that has received notice that its subsidy will be terminated during calendar year 2003 because decreased ridership has caused the subsidy to exceed that limitation.

**Subtitle C—Financial Improvement Effort and Executive Compensation Report****SEC. 371. GAO REPORT ON AIRLINES ACTIONS TO IMPROVE FINANCES AND ON EXECUTIVE COMPENSATION.**

(a) FINDING.—The Congress finds that the United States government has by law provided substantial financial assistance to United States commercial airlines in the form of war risk insurance and reinsurance and other economic benefits and has imposed substantial economic and regulatory burdens on those airlines. In order to determine the economic viability of the domestic commercial airline industry and to evaluate the need for additional measures or the modification of existing laws, the Congress needs more frequent information and independently verified information about the financial condition of these airlines.

(b) SEMIANNUAL REPORTS.—The Comptroller General shall prepare a semiannual report to the Congress—

(1) analyzing measures being taken by air carriers engaged in air transportation and intrastate air transportation (as such terms are used in subtitle VII of title 49, United States Code) to reduce costs and to improve their earnings and profits and balance sheets; and

(2) stating—

(A) the total compensation (as defined in section 104(b) of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note)) paid by the air carrier to each officer or employee of that air carrier to whom that section applies for the period to which the report relates; and

(B) the terms and value (determined on the basis of the closing price of the stock on the last business day of the period to which the report relates) of any stock options awarded to such officer during that period.

(c) GAO AUTHORITY.—In order to compile the reports required by subsection (b), the Comptroller General, or any of the Comptroller General’s duly authorized representatives, shall have access for the purpose of audit and examination to any books, accounts, documents, papers, and records of such air carriers that relate to the information required to compile the reports. The Comptroller General shall submit with each such report a certification as to whether the Comptroller General has had access to sufficient information to make informed judgments on the matters covered by the report.

(d) REPORTS TO CONGRESS.—The Comptroller General shall transmit the compilation of reports required by subsection (c) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

**TITLE IV—AVIATION SECURITY****SEC. 401. STUDY OF EFFECTIVENESS OF TRANSPORTATION SECURITY SYSTEM.**

(a) IN GENERAL.—The Secretary of Homeland Security, in consultation with representatives of the airport community, shall study the effectiveness of the aviation security system, including the air marshal program, hardening of cockpit doors, and security screening of passengers, checked baggage, and cargo.

(b) REPORT.—The Secretary shall transmit a report of the Secretary’s findings and conclusions together with any recommendations, including legislative recommendations, the Secretary may have for improving the effectiveness of aviation security to the Senate Committee on Commerce, Science, and Transportation and the

House of Representatives Committee on Transportation and Infrastructure within 6 months after the date of enactment of this Act. In the report the Secretary shall also describe any re-deployment of Transportation Security Administration resources based on those findings and conclusions. The Secretary may submit the report to the Committees in classified and redacted form.

#### SEC. 402. AVIATION SECURITY CAPITAL FUND.

(a) IN GENERAL.—There may be established within the Department of Homeland Security a fund to be known as the Aviation Security Capital Fund. There are authorized to be appropriated to the Fund up to \$500,000,000 for each of the fiscal years 2004 through 2007, such amounts to be derived from fees received under section 44940 of title 49, United States Code. Amounts in the fund shall be allocated in such a manner that—

(1) 40 percent shall be made available for hub airports;

(2) 20 percent shall be made available for medium hub airports;

(3) 15 percent shall be made available for small hub airports and nonhub airports; and

(4) 25 percent may be distributed at the Secretary's discretion.

(b) PURPOSE.—Amounts in the Fund shall be available to the Secretary of Homeland Security to provide financial assistance to airport sponsors to defray capital investment in transportation security at airport facilities in accordance with the provisions of this section. The program shall be administered in concert with the airport improvement program under chapter 417 of title 49, United States Code.

(c) APPORTIONMENT.—Amounts made available under subsection (a)(1), (a)(2), or (a)(3) shall be apportioned among the airports in each category in accordance with a formula based on the ratio that passenger enplanements at each airport in the category bears to the total passenger enplanements at all airports in that category.

(d) LETTERS OF INTENT.—The Secretary of Homeland Security, or his delegate, may execute letters of intent to commit funding to airport sponsors from the Fund.

(e) CONFORMING AMENDMENT.—Section 44940(a)(1) of title 49, United States Code, is amended by adding at the end the following:

“(H) The costs of security-related capital improvements at airports.”.

(f) DEFINITIONS.—Any term used in this section that is defined or used in chapter 417 of title 49, United States Code, has the meaning given that term in that chapter.

#### SEC. 403. TECHNICAL AMENDMENTS RELATED TO SECURITY-RELATED AIRPORT DEVELOPMENT.

(a) DEFINITION OF AIRPORT DEVELOPMENT.—Section 47102(3)(B) is amended—

(1) by inserting “and” after the semicolon in clause (viii);

(2) by striking “circular; and” in clause (ix) and inserting “circular.”; and

(3) by striking clause (x).

(b) IMPROVEMENT OF FACILITIES AND EQUIPMENT.—Section 308(a) of the Federal Aviation Reauthorization Act of 1996 (49 U.S.C. 44901 note) is amended by striking “travel.” and inserting “travel if the improvements or equipment will be owned and operated by the airport.”.

#### SEC. 404. ARMED FORCES CHARTERS.

Section 132 of the Aviation and Transportation Security Act (49 U.S.C. 44903 note) is amended by adding at the end the following:

“(c) EXEMPTION FOR ARMED FORCES CHARTERS.—

“(1) IN GENERAL.—Subsections (a) and (b) of this section, and chapter 449 of title 49, United States Code, do not apply to passengers and property carried by aircraft when employed to provide charter transportation to members of the armed forces.

“(2) IN GENERAL.—The Secretary of Defense, in consultation with the Secretary of Homeland

Security and the Secretary of Transportation, shall establish security procedures relating to the operation of aircraft when employed to provide charter transportation to members of the armed forces to or from an airport described in section 44903(c) of title 49, United States Code.

“(3) ARMED FORCES DEFINED.—In this subsection, the term ‘armed forces’ has the meaning given that term by section 101(a)(4) of title 10, United States Code.”.

#### SEC. 405. ARMING CARGO PILOTS AGAINST TERRORISM.

(a) SHORT TITLE.—This section may be cited as the “Arming Cargo Pilots Against Terrorism Act”.

(b) FINDINGS.—Congress makes the following findings:

(1) During the 107th Congress, both the Senate and the House of Representatives overwhelmingly passed measures that would have armed pilots of cargo aircraft.

(2) Cargo aircraft do not have Federal air marshals, trained cabin crew, or determined passengers to subdue terrorists.

(3) Cockpit doors on cargo aircraft, if present at all, largely do not meet the security standards required for commercial passenger aircraft.

(4) Cargo aircraft vary in size and many are larger and carry larger amounts of fuel than the aircraft hijacked on September 11, 2001.

(5) Aircraft cargo frequently contains hazardous material and can contain deadly biological and chemical agents and quantities of agents that cause communicable diseases.

(6) Approximately 12,000 of the nation's 90,000 commercial pilots serve as pilots and flight engineers on cargo aircraft.

(7) There are approximately 2,000 cargo flights per day in the United States, many of which are loaded with fuel for outbound international travel or are inbound from foreign airports not secured by the Transportation Security Administration.

(8) Aircraft transporting cargo pose a serious risk as potential terrorist targets that could be used as weapons of mass destruction.

(9) Pilots of cargo aircraft deserve the same ability to protect themselves and the aircraft they pilot as other commercial airline pilots.

(10) Permitting pilots of cargo aircraft to carry firearms creates an important last line of defense against a terrorist effort to commandeer a cargo aircraft.

(c) SENSE OF CONGRESS.—It is the sense of Congress that members of a flight deck crew of a cargo aircraft should be armed with a firearm and taser to defend the cargo aircraft against an attack by terrorists that could result in the use of the aircraft as a weapon of mass destruction or for other terrorist purposes.

(d) ARMING CARGO PILOTS AGAINST TERRORISM.—Section 44921 of title 49, United States Code, is amended—

(1) in subsection (a), by striking “passenger” each place that it appears; and

(2) in subsection (k)—

(A) in paragraph (2)—

(i) by striking “or,” and all that follows; and

(ii) by inserting “or any other flight deck crew member.”; and

(B) by adding at the end the following new paragraph:

“(3) ALL-CARGO AIR TRANSPORTATION.—For the purposes of this section, the term air transportation includes all-cargo air transportation.”.

(e) TIME FOR IMPLEMENTATION.—The training of pilots as Federal flight deck officers required in the amendments made by subsection (d) shall begin as soon as practicable and no later than 90 days after the date of enactment of this Act.

(f) EFFECT ON OTHER LAWS.—The requirements of subsection (e) shall have no effect on the deadlines for implementation contained in section 44921 of title 49, United States Code, as in effect on the day before the date of enactment of this Act.

#### SEC. 406. GENERAL AVIATION AND AIR CHARTERS.

Section 132(a) of the Aviation and Transportation Security Act (49 U.S.C. 44944 note) is amended by striking “12,500 pounds or more” and inserting “more than 12,500 pounds”.

#### SEC. 407. AIR DEFENSE IDENTIFICATION ZONE.

(a) IN GENERAL.—If the Administrator of the Federal Aviation Administration establishes an Air Defense Identification Zone (in this section referred to as an “ADIZ”), the Administrator shall, not later than 60 days after the date of establishing the ADIZ, transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report containing an explanation of the need for the ADIZ. The Administrator shall provide the Committees an updated report every 60 days until the establishment of the ADIZ is rescinded. The reports and updates shall be transmitted in classified form.

(b) EXISTING ADIZ.—If an ADIZ is in effect on the date of enactment of this Act, the Administrator shall transmit an initial report under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 30 days after the date of enactment of this Act.

(c) REPORTING REQUIREMENTS.—If a report required under subsection (a) or (b) indicates that the ADIZ is to be continued, the Administrator shall outline changes in procedures and requirements to improve operational efficiency and minimize the operational impacts of the ADIZ on pilots and air traffic controllers.

(d) DEFINITION.—In this section, the terms “Air Defense Identification Zone” and “ADIZ” mean a zone established by the Administrator with respect to airspace under 18,000 feet in approximately a 15 to 38 mile radius around Washington, District of Columbia, for which security measures are extended beyond the existing 15-mile-no-fly zone around Washington and in which general aviation aircraft are required to adhere to certain procedures issued by the Administrator.

#### SEC. 408. REPORT ON PASSENGER PRESCREENING PROGRAM.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Attorney General, shall submit a report in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the potential impact of the Transportation Security Administration's proposed Computer Assisted Passenger Prescreening system, commonly known as CAPPS II, on the privacy and civil liberties of United States citizens.

(b) SPECIFIC ISSUES TO BE ADDRESSED.—The report shall address the following:

(1) Whether and for what period of time data gathered on individual travelers will be retained, who will have access to such data, and who will make decisions concerning access to such data.

(2) How the Transportation Security Administration will treat the scores assigned to individual travelers to measure the likelihood they may pose a security threat, including how long such scores will be retained and whether and under what circumstances they may be shared with other governmental, nongovernmental, or commercial entities.

(3) The role airlines and outside vendors or contractors will have in implementing and operating the system, and to what extent will they have access, or the means to obtain access, to data, scores, or other information generated by the system.

(4) The safeguards that will be implemented to ensure that data, scores, or other information

generated by the system will be used only as officially intended.

(5) The procedures that will be implemented to mitigate the effect of any errors, and what procedural recourse will be available to passengers who believe the system has wrongly barred them from taking flights.

(6) The oversight procedures that will be implemented to ensure that, on an ongoing basis, privacy and civil liberties issues will continue to be considered and addressed with high priority as the system is installed, operated and updated.

#### SEC. 409. REMOVAL OF CAP ON TSA STAFFING LEVEL.

The matter appearing under the heading "AVIATION SECURITY" in the appropriations for the Transportation Security Administration in the Transportation and Related Agencies Appropriation Act, 2003 (Public Law 108-7; 117 Stat. 386) is amended by striking the fifth proviso.

#### SEC. 410. FOREIGN REPAIR STATION SAFETY AND SECURITY.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) DOMESTIC REPAIR STATION.—The term "domestic repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located in the United States.

(3) FOREIGN REPAIR STATION.—The term "foreign repair station" means a repair station or shop that—

(A) is described in section 44707(2) of title 49, United States Code; and

(B) is located outside of the United States.

(4) UNDER SECRETARY.—The term "Under Secretary" means the Under Secretary for Border and Transportation Security of the Department of Homeland Security.

(b) APPLICABILITY OF STANDARDS.—Within 180 days after the date of enactment of this Act, the Administrator shall issue regulations to ensure that foreign repair stations meet the same level of safety required of domestic repair stations.

(c) SPECIFIC STANDARDS.—In carrying out subsection (b), the Administrator shall, at a minimum, specifically ensure that foreign repair stations, as a condition of being certified to work on United States registered aircraft—

(1) institute a program of drug and alcohol testing of its employees working on United States registered aircraft and that such a program provides an equivalent level of safety achieved by the drug and alcohol testing requirements that workers are subject to at domestic repair stations;

(2) agree to be subject to the same type and level of inspection by the Federal Aviation Administration as domestic repair stations and that such inspections occur without prior notice to the country in which the station is located; and

(3) follow the security procedures established under subsection (d).

(d) SECURITY AUDITS.—

(1) IN GENERAL.—To ensure the security of maintenance and repair work conducted on United States aircraft and components at foreign repair stations, the Under Secretary, in consultation with the Administrator, shall complete a security review and audit of foreign repair stations certified by the Administrator under part 145 of title 14, Code of Federal Regulations. The review shall be completed not later than 180 days after the date on which the Under Secretary issues regulations under paragraph (6).

(2) ADDRESSING SECURITY CONCERNS.—The Under Secretary shall require a foreign repair station to address the security issues and vulnerabilities identified in a security audit conducted under paragraph (1) within 90 days of

providing notice to the repair station of the security issues and vulnerabilities identified.

(3) SUSPENSIONS AND REVOCATIONS OF CERTIFICATIONS.—

(A) FAILURE TO CARRY OUT EFFECTIVE SECURITY MEASURES.—If the Under Secretary determines as a result of a security audit that a foreign repair station does not maintain and carry out effective security measures or if a foreign repair station does not address the security issues and vulnerabilities as required under subsection (d)(2), the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall suspend the certification of the repair station until such time as the Under Secretary determines that the repair station maintains and carries out effective security measures and has addressed the security issues identified in the audit, and transmits the determination to the Administrator.

(B) IMMEDIATE SECURITY RISK.—If the Under Secretary determines that a foreign repair station poses an immediate security risk, the Under Secretary shall notify the Administrator of the determination. Upon receipt of the determination, the Administrator shall revoke the certification of the repair station.

(4) FAILURE TO MEET AUDIT DEADLINE.—If the security audits required by paragraph (1) are not completed on or before the date that is 180 days after the date on which the Under Secretary issues regulations under paragraph (6), the Administrator may not certify, or renew the certification of, any foreign repair station until such audits are completed.

(5) PRIORITY FOR AUDITS.—In conducting the audits described in paragraph (1), the Under Secretary and the Administrator shall give priority to foreign repair stations located in countries identified by the United States Government as posing the most significant security risks.

(6) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Under Secretary, in consultation with the Administrator, shall issue final regulations to ensure the security of foreign and domestic repair stations. If final regulations are not issued within 180 days of the date of enactment of this Act, the Administrator may not certify, or renew the certification of, any foreign repair station until such regulations have been issued.

#### TITLE V—MISCELLANEOUS

##### SEC. 501. EXTENSION OF WAR RISK INSURANCE AUTHORITY.

Section 44310 is amended by striking "2004." and inserting "2006."

##### SEC. 502. COST-SHARING OF AIR TRAFFIC MODERNIZATION PROJECTS.

(a) IN GENERAL.—Chapter 445 is amended by adding at the end the following:

##### "§44517. Program to permit cost-sharing of air traffic modernization projects

"(a) IN GENERAL.—Subject to the requirements of this section, the Secretary may carry out a program under which the Secretary may make grants to project sponsors for not more than 10 eligible projects per fiscal year for the purpose of improving aviation safety and enhancing mobility of the Nation's air transportation system by encouraging non-Federal investment in critical air traffic control facilities and equipment.

"(b) FEDERAL SHARE.—The Federal share of the cost of an eligible project carried out under the program shall not exceed 33 percent. The non-Federal share of the cost of an eligible project shall be provided from non-Federal sources, including revenues collected pursuant to section 40117 of this title.

"(c) LIMITATION ON GRANT AMOUNTS.—No eligible project may receive more than \$5,000,000 in Federal funds under the program.

"(d) FUNDING.—The Secretary shall use amounts appropriated under section 48101(a) of this title to carry out this program.

"(e) DEFINITIONS.—In this section:

"(1) ELIGIBLE PROJECT.—The term 'eligible project' means a project relating to the Nation's

air traffic control system that is certified or approved by the Administrator and that promotes safety, efficiency, or mobility. Such projects may include—

"(A) airport-specific air traffic facilities and equipment, including local area augmentation systems, instrument landing systems, weather and wind shear detection equipment, lighting improvements, and control towers;

"(B) automation tools to effect improvements in airport capacity, including passive final approach spacing tools and traffic management advisory equipment; and

"(C) facilities and equipment that enhance airspace control procedures, including consolidation of terminal radar control facilities and equipment, or assist in en route surveillance, including oceanic and offshore flight tracking.

"(2) PROJECT SPONSOR.—The term 'project sponsor' means any major user of the National Airspace System, as determined by the Secretary, including a public-use airport or a joint venture between a public-use airport and one or more air carriers.

"(f) TRANSFERS OF EQUIPMENT.—Notwithstanding any other provision of law, and upon agreement by the Administrator of the Federal Aviation Administration, project sponsors may transfer, without consideration, to the Federal Aviation Administration, facilities, equipment, or automation tools, the purchase of which was assisted by a grant made under this section, if such facilities, equipment or tools meet Federal Aviation Administration operation and maintenance criteria.

"(g) GUIDELINES.—The Administrator shall issue advisory guidelines on the implementation of the program, which shall not be subject to administrative rulemaking requirements under subchapter II of chapter 5 of title 5."

(b) CONFORMING AMENDMENT.—The chapter analyses for chapter 445 is amended by adding at the end the following:

"44517. Program to permit cost-sharing of air traffic modernization projects."

##### SEC. 503. COUNTERFEIT OR FRAUDULENTLY REPRESENTED PARTS VIOLATIONS.

Section 44726(a)(1) is amended—

(1) by striking "or" after the semicolon in subparagraph (A);

(2) by redesignating subparagraph (B) as subparagraph (D);

(3) by inserting after subparagraph (A) the following:

"(B) who knowingly, and with intent to defraud, carried out or facilitated an activity punishable under a law described in subparagraph (A);

"(C) whose certificate is revoked under subsection (b) of this section; or"; and

(4) by striking "convicted of such a violation," in subparagraph (D), as redesignated, and inserting "described in subparagraph (A), (B) or (C)."

##### SEC. 504. CLARIFICATIONS TO PROCUREMENT AUTHORITY.

(a) UPDATE AND CLARIFICATION OF AUTHORITY.—

(1) Section 40110(c) is amended to read as follows:

"(c) DUTIES AND POWERS.—When carrying out subsection (a) of this section, the Administrator of the Federal Aviation Administration may—

"(1) notwithstanding section 1341(a)(1) of title 31, lease an interest in property for not more than 20 years;

"(2) consider the reasonable probable future use of the underlying land in making an award for a condemnation of an interest in airspace; and

"(3) dispose of property under subsection (a)(2) of this section, except for airport and airway property and technical equipment used for the special purposes of the Administration, only under subchapter III of chapter 5 of title 40, United States Code."

(2) Section 40110(d)(1) is amended by striking "implement, not later than January 1, 1996," and inserting "implement".

(b) CLARIFICATION.—Section 106(f)(2)(A)(ii) is amended by striking “property” and inserting “property, services.”.

#### SEC. 505. JUDICIAL REVIEW.

Section 46110(c) is amended by adding at the end the following: “Except as otherwise provided in this subtitle, judicial review of an order issued, in whole or in part, pursuant to this part, part B of this subtitle, or subsection (l) or (s) of section 114 of this title, shall be in accordance with the provisions of this section.”.

#### SEC. 506. CIVIL PENALTIES.

(a) INCREASE IN MAXIMUM CIVIL PENALTY.—Section 46301(a) is amended—

(1) by striking “\$1,000” in paragraph (1) and inserting “\$25,000”;

(2) by striking “or” the last time it appears in paragraph (1)(A);

(3) by striking “section )” in paragraph (1)(A), and inserting “section), or section 47133”;

(4) by striking paragraphs (2), (3), (6), and (7) and redesignating paragraphs (4), (5), and (8) as paragraphs (2), (3), and (4), respectively; and

(5) by striking “paragraphs (1) and (2)” in paragraph (4), as redesignated, and inserting “paragraph (1)”.

(b) INCREASE IN LIMIT ON ADMINISTRATIVE AUTHORITY AND CIVIL PENALTY.—Section 46301(d) is amended—

(1) by striking “\$50,000;” in paragraph (4)(A) by inserting “\$50,000, if the violation occurred before the date of enactment of the Aviation Authorization Act of 2003, or \$1,000,000, if the violation occurred on or after that date;”; and

(2) by striking “\$50,000.” in paragraph (8) and inserting “\$50,000, if the violation occurred before the date of enactment of the Aviation Authorization Act of 2003, or \$1,000,000, if the violation occurred on or after that date.”.

#### SEC. 507. MISCELLANEOUS AMENDMENTS.

(a) AMOUNTS SUBJECT TO APPORTIONMENT UNDER CHAPTER 471.—

(1) IN GENERAL.—Section 47102 is amended—

(A) by striking paragraph (6) and inserting the following:

“(6) ‘amount newly made available’ means the amount newly made available under section 48103 of this title as an authorization for grant obligations for a fiscal year, as that amount may be limited in that year by a provision in an appropriations Act, but as determined without regard to grant obligation recoveries made in that year or amounts covered by section 47107(f).”; and

(B) by redesignating paragraphs (7) through (20) as paragraphs (8) through (21), and inserting after paragraph (6) the following:

“(7) ‘amount subject to apportionment’ means the amount newly made available, less the amount made available for the fiscal year for administrative expenses under section 48105.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 41742(b) is amended by striking “Notwithstanding section 47114(g) of this title, any” and inserting “Any”.

(B) Section 47104(b) is amended to read as follows:

“(b) INCURRING OBLIGATIONS.—The Secretary may incur obligations to make grants from the amount subject to apportionment as soon as the apportionments required by sections 47114(c) and (d)(2) of this title have been issued.”.

(C) Section 47107(f)(3) is amended by striking “made available to the Secretary under section 48103 of this title and” and inserting “subject to apportionment, and is”.

(D) Section 47114 is amended—

(i) by striking subsection (a);

(ii) by striking “apportionment for that fiscal year” in subsection (b) and inserting “apportionment”;

(iii) by striking “total amount made available under section 48103” in subsections (c)(2)(C), (d)(3), and (e)(4) and inserting “amount subject to apportionment”;

(iv) by striking “each fiscal year” in subsection (c)(2)(A); and

(v) by striking “for each fiscal year” in subsection (d)(2).

(E) Subsection 47116(b) is amended by striking “amounts are made available under section 48103 of this title” and inserting “an amount is subject to apportionment”.

(F) Section 47117 is amended—

(i) by striking “amounts are made available under section 48103 of this title.” in subsection (a) and inserting “an amount is subject to apportionment.”;

(ii) by striking “a sufficient amount is made available under section 48103.” in subsection (f)(2)(A) and inserting “there is a sufficient amount subject to apportionment.”;

(iii) in subsection (f)(2)(B), by inserting “in” before “the succeeding”;

(iv) by striking “NEWLY AVAILABLE” in the caption of subsection (f)(3) and inserting “RESTORED”;

(v) by striking “newly available under section 48103 of this title,” in subsection (f)(3)(A) and inserting “subject to apportionment.”;

(vi) by striking “made available under section 48103 for such obligations for such fiscal year.” in subsection (f)(4) and inserting “subject to apportionment.”; and

(vii) by striking “enacted after September 3, 1982,” in subsection (g).

(b) RECOVERED FUNDS.—Section 47117 is amended by adding at the end the following:

“(h) CREDITING OF RECOVERED FUNDS.—For the purpose of determining compliance with a limitation on the amount of grant obligations that may be incurred in a fiscal year imposed by an appropriations Act, an amount that is recovered by canceling or reducing a grant obligation—

“(1) shall be treated as a negative obligation that is to be netted against the gross obligation limitation, and

“(2) may permit the gross limitation to be exceeded by an equal amount.”.

(c) AIRPORT SAFETY DATA COLLECTION.—Section 47130 is amended to read as follows:

#### “§47130. Airport safety data collection

“Notwithstanding any other provision of law, the Administrator of the Federal Aviation Administration may award a contract, using sole source or limited source authority, or enter into a cooperative agreement with, or provide a grant from amounts made available under section 48103 to, a private company or entity for the collection of airport safety data. If a grant is provided, the United States Government’s share of the cost of the data collection shall be 100 percent.”.

(d) STATUTE OF LIMITATIONS.—Section 47107(l)(5)(A) is amended by inserting “or any other governmental entity” after “sponsor”.

(e) AUDIT CERTIFICATION.—Section 47107(m) is amended—

(1) by striking “promulgate regulations that” in paragraph (1) and inserting “include a provision in the compliance supplement provisions to”;

(2) by striking “and opinion of the review” in paragraph (1); and

(3) by striking paragraph (3).

(f) NOISE EXPOSURE MAPS.—Section 47503(a) is amended by striking “1985,” and inserting “a forecast year that is at least 5 years in the future.”.

(g) CLARIFICATION OF APPLICABILITY OF PFCs TO MILITARY CHARTERS.—Section 40117(e)(2) is amended—

(1) by striking “and” after the semicolon in subparagraph (D);

(2) by striking “passengers.” in subparagraph (E) and inserting “passengers; and”; and

(3) by adding at the end the following:

“(F) enplaning at an airport if the passenger did not pay for the air transportation which resulted in such enplanement due to charter arrangements and payment by the United States Department of Defense.”.

#### SEC. 508. LOW-EMISSION AIRPORT VEHICLES AND INFRASTRUCTURE.

(a) PURPOSE.—The purpose of this section is to permit the use of funds made available under

subchapter 471 to encourage commercial service airports in air quality nonattainment and maintenance areas to undertake projects for gate electrification, acquisition or conversion of airport vehicles and airport-owned ground support equipment to acquire low-emission technology, low-emission technology fuel systems, and other related air quality projects on a voluntary basis to improve air quality and more aggressively address the constraints that emissions can impose on future aviation growth. Use of those funds is conditioned on airports receiving credits for emissions reductions that can be used to mitigate the air quality effects of future airport development. Making these projects eligible for funding in addition to those projects that are already eligible under section 47102(3)(F) is intended to support those projects that, at the time of execution, may not be required by the Clean Air Act (42 U.S.C. 7501 et seq.), but may be needed in the future.

(b) ACTIVITIES ADDED TO DEFINITION OF “AIRPORT DEVELOPMENT”.—Section 47102(3) is amended by adding at the end the following:

“(K) work necessary to construct or modify airport facilities to provide low-emission fuel systems, gate electrification, and other related air quality improvements at a commercial service airport, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits, as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission modifications and improvements and stating how airport sponsors will demonstrate benefits.

“(L) a project for the acquisition or conversion of vehicles and ground support equipment, owned by a commercial service airport, to low-emission technology, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a) and if such project will result in an airport receiving appropriate emission credits as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance describing eligible low-emission vehicle technology and stating how airport sponsors will demonstrate benefits. For airport-owned vehicles and equipment, the acquisition of which are not otherwise eligible for assistance under this subchapter, the incremental cost of equipping such vehicles or equipment with low-emission technology shall be treated as eligible for assistance.”.

(c) LOW-EMISSION TECHNOLOGY DEFINED.—Section 47102 is amended by redesignating paragraphs (10) through (20), as paragraphs (11) through (21) respectively, and inserting after paragraph (9) the following:

“(11) ‘low-emission technology’ means technology for new vehicles and equipment whose emission performance is the best achievable under emission standards established by the Environmental Protection Agency and that relies exclusively on alternative fuels that are substantially non-petroleum based, as defined by the Department of Energy, but not excluding hybrid systems.”.

(d) EMISSIONS CREDITS.—

(1) IN GENERAL.—Subchapter I of chapter 471, as amended by section 206 of this Act, is further amended by adding at the end the following:

#### “§47139. Emission credits for air quality projects

“(a) IN GENERAL.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to assure that airport sponsors receive appropriate emission credits for projects described in sections 40117(a)(3)(G), 47102(3)(K), or 47102(3)(L) of this

title. The agreement must, at a minimum, include provisions to ensure that—

“(1) the credits will be consistent with the Clean Air Act (42 U.S.C. 7402 et seq.);

“(2) credits generated by the emissions reductions in criteria pollutants are kept by the airport sponsor and may be used for purposes of any current or future general conformity determination or as offsets under the New Source Review program;

“(3) there is national consistency in the way credits are calculated and are provided to airports;

“(4) credits are provided to airport sponsors in a timely manner; and

“(5) there is a method by which the Secretary can be assured that, for any specific project for which funding is being requested, the appropriate credits will be granted.

“(b) ASSURANCE OF RECEIPT OF CREDITS.—

“(1) IN GENERAL.—As a condition for making a grant for a project described in section 47102(3)(K), 47102(3)(L), or 47140 of this title, or as a condition for granting approval to collect or use a passenger facility fee for a project described in sections 40117(a)(3)(G), 47102(3)(K), 47102(3)(L), or 47140 of this title, the Secretary must receive assurance from the State in which the project is located, or from the Administrator of the Environmental Protection Agency where there is a Federal Implementation Plan, that the airport sponsor will receive appropriate emission credits in accordance with the conditions of this subsection.

“(2) CREDITS FOR CERTAIN EXISTING PROJECTS.—The Secretary and the Administrator of the Environmental Protection Agency shall jointly agree on how to provide emission credits to projects previously approved under section 47136 of this title during fiscal years 2001 through 2003, under terms consistent with this section.”

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is amended by inserting after the item relating to section 47138 the following:

“47139. Emission credits for air quality projects.”

(e) AIRPORT GROUND SUPPORT EQUIPMENT EMISSIONS RETROFIT PILOT PROGRAM.—

(1) IN GENERAL.—Subchapter I of chapter 471 is further amended by adding at the end the following:

“§47140. Airport ground support equipment emissions retrofit pilot program

“(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 commercial service airports under which the sponsors of such airports may use an amount subject to apportionment to retrofit existing eligible airport ground support equipment which burns conventional fuels to achieve lower emissions utilizing emission control technologies certified or verified by the Environmental Protection Agency.

“(b) LOCATION IN AIR QUALITY NONATTAINMENT OR MAINTENANCE AREAS.—A commercial service airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a)).

“(c) SELECTION CRITERIA.—In selecting applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

“(d) MAXIMUM AMOUNT.—Not more than \$500,000 may be expended under the pilot program at any single commercial service airport.

“(e) GUIDELINES.—The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall establish guidelines regarding the types of retrofit projects eli-

gible under this pilot program by considering remaining equipment useful life, amounts of emission reduction in relation to the cost of projects, and other factors necessary to carry out this section. The Secretary may give priority to ground support equipment owned by the airport and used for airport purposes.

“(f) ELIGIBLE EQUIPMENT DEFINED.—For purposes of this section, the term ‘eligible equipment’ means ground service or maintenance equipment that—

“(1) is located at the airport;

“(2) used to support aeronautical and related activities on the airport; and

“(3) will remain in operation at the airport.”

(2) CONFORMING AMENDMENT.—The chapter analysis for chapter 471 is further amended by inserting after the item relating to section 47139 the following:

“47140. Airport ground support equipment emissions retrofit pilot program.”

SEC. 509. LOW-EMISSION AIRPORT VEHICLES AND GROUND SUPPORT EQUIPMENT.

Section 40117(a)(3) is amended by inserting at the end the following:

“(G) A project for the acquisition or conversion of ground support equipment or airport-owned vehicles used at a commercial service airport with, or to, low-emission technology or cleaner burning conventional fuels, or the retrofitting of such equipment or vehicles that are powered by a diesel or gasoline engine with emission control technologies certified or verified by the Environmental Protection Agency to reduce emissions, if the airport is located in an air quality nonattainment or maintenance area (as defined in sections 171(2) and 175(A) of the Clean Air Act (42 U.S.C. 7501(2), 7505a)), and if such project will result in an airport receiving appropriate emission credits as described in section 47139 of this title. The Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall issue guidance for eligible projects and for how benefits must be demonstrated. The eligible cost is limited to the incremental amount that exceeds the cost of acquiring other vehicles or equipment that are not low-emission and would be used for the same purpose, or to the cost of low-emission retrofitting. For purposes of this paragraph, the term ‘ground support equipment’ means service and maintenance equipment used at an airport to support aeronautical operations and related activities.”

SEC. 510. PACIFIC EMERGENCY DIVERSION AIRPORT.

(a) IN GENERAL.—The Secretary of Transportation shall enter into a memorandum of understanding with the Secretaries of Defense, the Interior, and Homeland Security to facilitate the sale of aircraft fuel on Midway Island, so that the revenue from the fuel sales can be used to operate Midway Island Airport in accordance with Federal Aviation Administration airport standards. The memorandum shall also address the long term potential for promoting tourism as a means of generating revenue to operate the airport.

(b) NAVIGATIONAL AIDS.—The Administrator of the Federal Aviation Administration may support and be responsible for maintaining all aviation-related navigational aids at Midway Island Airport.

SEC. 511. GULF OF MEXICO AVIATION SERVICE IMPROVEMENTS.

(a) IN GENERAL.—The Secretary of Transportation may develop and carry out a program designed to expand and improve the safety, efficiency, and security of—

(1) air traffic control services provided to aviation in the Gulf of Mexico area; and

(2) aviation-related navigational, low altitude communications and surveillance, and weather services in that area.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may

be necessary to carry out this section for the 4 fiscal year period beginning with fiscal year 2004.

SEC. 512. AIR TRAFFIC CONTROL COLLEGIATE TRAINING INITIATIVE.

The Secretary of Transportation may use, from funds available to the Secretary and not otherwise obligated or expended, such sums as may be necessary to carry out and expand the Air Traffic Control Collegiate Training Initiative.

SEC. 513. AIR TRANSPORTATION OVERSIGHT SYSTEM PLAN.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure an action plan, with an implementation schedule—

(1) to provide adequate oversight of repair stations (known as Part 145 repair stations) and ensure that Administration-approved repair stations outside the United States are subject to the same level of oversight and quality control as those located in the United States; and

(2) for addressing problems with the Air Transportation Oversight System that have been identified in reports by the Comptroller General and the Inspector General of the Department of Transportation.

(b) PLAN REQUIREMENTS.—The plan transmitted by the Administrator under subsection (a)(2) shall set forth the action the Administration will take under the plan—

(1) to develop specific, clear, and meaningful inspection checklists for the use of Administration aviation safety inspectors and analysts;

(2) to provide adequate training to Administration aviation safety inspectors in system safety concepts, risk analysis, and auditing;

(3) to ensure that aviation safety inspectors with the necessary qualifications and experience are physically located where they can satisfy the most important needs;

(4) to establish strong national leadership for the Air Transportation Oversight System and to ensure that the System is implemented consistently across Administration field offices; and

(5) to extend the Air Transportation Oversight System beyond the 10 largest air carriers, so it governs oversight of smaller air carriers as well.

SEC. 514. NATIONAL SMALL COMMUNITY AIR SERVICE DEVELOPMENT OMBUDSMAN.

(a) IN GENERAL.—Subchapter II of chapter 417, as amended by section 353 of this Act, is amended by adding at the end the following:

“§41746. National Small Community Air Service Development Ombudsman

“(a) ESTABLISHMENT.—There is established in the Department of Transportation the position of National Small Community Air Service Ombudsman (in this section referred to as the ‘Ombudsman’). The Secretary of Transportation shall appoint the Ombudsman. The Ombudsman shall report to the Secretary.

“(b) PURPOSE.—The Ombudsman, in consultation with officials from small communities in the United States, State aviation agencies, and State and local economic development agencies, shall develop strategies for retaining and enhancing the air service provided to small communities in the United States.

“(c) OUTREACH.—The Ombudsman shall solicit and receive comments from small communities regarding strategies for retaining and enhancing air service, and shall act as a liaison between the communities and Federal agencies for the purpose of developing such strategies.”

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 417 is amended by inserting after the item relating to section 47145 the following:

“47146. National small community air service development ombudsman.”

**SEC. 515. NATIONAL COMMISSION ON SMALL COMMUNITY AIR SERVICE.**

(a) **ESTABLISHMENT.**—There is established a commission to be known as the "National Commission on Small Community Air Service" (in this section referred to as the "Commission").

(b) **MEMBERSHIP.**—

(1) **COMPOSITION.**—The Commission shall be composed of 9 members of whom—

(A) 3 members shall be appointed by the Secretary;

(B) 2 members shall be appointed by the Majority Leader of the Senate;

(C) 1 member shall be appointed by the Minority Leader of the Senate;

(D) 2 members shall be appointed by the Speaker of the House of Representatives; and

(E) 1 member shall be appointed by the Minority Leader of the House of Representatives.

(2) **QUALIFICATIONS.**—Of the members appointed by the Secretary under paragraph (1)(A)—

(A) 1 member shall be a representative of a regional airline;

(B) 1 member shall be a representative of an FAA-designated small-hub airport; and

(C) 1 member shall be a representative of a State aviation agency.

(3) **TERMS.**—Members shall be appointed for the life of the Commission.

(4) **VACANCIES.**—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(5) **TRAVEL EXPENSES.**—Members shall serve without pay but shall receive travel expenses, including per diem in lieu of subsistence, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(c) **CHAIRPERSON.**—The Secretary shall designate, from among the individuals appointed under subsection (b)(1), an individual to serve as Chairperson of the Commission.

(d) **DUTIES.**—

(1) **STUDY.**—The Commission shall undertake a study of—

(A) the challenges faced by small communities in the United States with respect to retaining and enhancing their scheduled commercial air service; and

(B) whether the existing Federal programs charged with helping small communities are adequate for them to retain and enhance their existing air service.

(2) **ESSENTIAL AIR SERVICE COMMUNITIES.**—In conducting the study, the Commission shall pay particular attention to the state of scheduled commercial air service in communities currently served by the Essential Air Service program.

(e) **RECOMMENDATIONS.**—Based on the results of the study under subsection (d), the Commission shall make such recommendations as it considers necessary to—

(1) improve the state of scheduled commercial air service at small communities in the United States, especially communities described in subsection (d)(2); and

(2) improve the ability of small communities to retain and enhance their existing air service.

(f) **REPORT.**—Not later than 6 months after the date on which initial appointments of members to the Commission are completed, the Commission shall transmit to the President and Congress a report on the activities of the Commission, including recommendations made by the Commission under subsection (e).

(g) **COMMISSION PANELS.**—The Chairperson shall establish such panels consisting of members of the Commission as the Chairperson determines appropriate to carry out the functions of the Commission.

(h) **COMMISSION PERSONNEL MATTERS.**—

(1) **STAFF.**—The Commission may appoint and fix the pay of such personnel as it considers appropriate.

(2) **STAFF OF FEDERAL AGENCIES.**—Upon request of the Chairperson, the head of any department or agency of the United States may detail, on a reimbursable basis, any of the per-

sonnel of that department or agency to the Commission to assist it in carrying out its duties under this section.

(3) **OTHER STAFF AND SUPPORT.**—Upon the request of the Commission, or a panel of the Commission, the Secretary shall provide the Commission or panel with professional and administrative staff and other support, on a reimbursable basis, to assist the Commission or panel in carrying out its responsibilities.

(i) **OBTAINING OFFICIAL DATA.**—The Commission may secure directly from any department or agency of the United States information (other than information required by any statute of the United States to be kept confidential by such department or agency) necessary for the Commission to carry out its duties under this section. Upon request of the Chairperson, the head of that department or agency shall furnish such nonconfidential information to the Commission.

(j) **TERMINATION.**—The Commission shall terminate on the 30th day following the date of transmittal of the report under subsection (f).

(k) **APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation \$250,000 to be used to fund the Commission.

**SEC. 516. TRAINING CERTIFICATION FOR CABIN CREW.**

Section 44935 is amended by adding at the end the following:

“(g) **TRAINING STANDARDS FOR CABIN CREW.**—

(1) **IN GENERAL.**—The Administrator shall establish standards for cabin crew training, consistent with the Homeland Security Act of 2002, and the issuance of certification. The Administrator shall require cabin crew members to complete a cabin crew training course approved by the Federal Aviation Administration and the Transportation Security Administration.

“(2) **CERTIFICATION.**—

(A) **IN GENERAL.**—The Administrator shall provide for the issuance of an appropriate certificate to each individual who successfully completes such a course.

“(B) **CONTENTS.**—The cabin crew certificate shall—

“(i) be numbered and recorded by the Administrator of the Federal Aviation Administration;

“(ii) contain the name, address, and description of the individual to whom the certificate is issued; and

“(iii) contain the name of the current air carrier employer of the certificate holder;

“(iv) contain terms the Administrator determines are necessary to ensure safety in air commerce, including terms that the certificate shall remain valid unless the Administrator suspends or revokes the certificate; and

“(v) designate the type and model of aircraft on which the certificate holder cabin crew member has successfully completed all Federal Aviation Administration and Transportation Security Administration required training in order to be assigned duties on board such type and model of aircraft.

“(3) **CABIN CREW DEFINED.**—In this subsection, the term ‘cabin crew’ means individuals working in an aircraft cabin on board a transport category aircraft with 20 or more seats.”.

**SEC. 517. AIRCRAFT MANUFACTURER INSURANCE.**

(a) **IN GENERAL.**—Section 44302(f) is amended by adding at the end the following:

“(3) **AIRCRAFT MANUFACTURERS.**—The Secretary may offer to provide war and terrorism insurance to aircraft manufacturers for loss or damage arising from the operation of an aircraft by an air carrier, in excess of \$50,000,000 in the aggregate or in excess of such other amounts of available primary insurance, on such terms and conditions as the Secretary may prescribe.”.

(b) **CONFORMING AMENDMENTS.**—

(1) **DEFINITION OF AIRCRAFT MANUFACTURER.**—Section 44301 is amended by adding at the end the following:

“(3) ‘aircraft manufacturer’ means any company or other business entity the majority ownership and control of which is by United States citizens that manufactures aircraft or aircraft engines.”.

(2) **COVERAGE.**—Section 44303(a) is amended by adding at the end the following:

“(6) war and terrorism losses or damages of an aircraft manufacturer arising from the operation of an aircraft by an air carrier.”.

**SEC. 518. GROUND-BASED PRECISION NAVIGATIONAL AIDS.**

(a) **IN GENERAL.**—The Secretary of Transportation may establish a program for the installation, operation, and maintenance of ground-based precision navigational aids for terrain-challenged airports. The program shall include provision for—

(1) preventative and corrective maintenance for the life of each system of such aids; and

(2) requisite staffing and resources for the Federal Aviation Administration’s efficient maintenance of the program.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation to carry out the program established under subsection (a) such sums as may be necessary.

**SEC. 519. STANDBY POWER EFFICIENCY PROGRAM.**

(a) **ESTABLISHMENT.**—The Secretary of Transportation, in cooperation with the Secretary of Energy and, where applicable, the Secretary of Defense, may establish a program to improve the efficiency, cost-effectiveness, and environmental performance of standby power systems at Federal Aviation Administration sites, including the implementation of fuel cell technology.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary for each of fiscal years 2004 through 2008 to carry out the provisions of this section.

**SEC. 520. CERTAIN INTERIM AND FINAL RULES.**

Notwithstanding section 141(d)(1) of the Aviation and Transportation Security Act (49 U.S.C. 44901 note), section 45301(b)(1)(B) of title 49, United States Code, as amended by section 119(d) of that Act, is deemed to apply to, and to have been in effect with respect to, the authority of the Administrator of the Federal Aviation Administration with respect to the Interim Final Rule and Final Rule issued by the Administrator on May 30, 2000, and August 13, 2001, respectively.

**SEC. 521. AIR FARES FOR MEMBERS OF ARMED FORCES.**

It is the sense of the Senate that each United States air carrier should—

(1) make every effort to allow active duty members of the Armed Forces to purchase tickets, on a space-available basis, for the lowest fares offered for the flights desired, without regard to advance purchase requirements and other restrictions; and

(2) offer flexible terms that allow members of the Armed Forces on active duty to purchase, modify, or cancel tickets without time restrictions, fees, or penalties.

**SEC. 522. MODIFICATION OF REQUIREMENTS REGARDING TRAINING TO OPERATE AIRCRAFT.**

(a) **IN GENERAL.**—Section 44939 of title 49, United States Code, is amended to read as follows:

“§44939. **Training to operate certain aircraft**

“(a) **IN GENERAL.**—

“(1) **WAITING PERIOD.**—A person subject to regulation under this part may provide training in the United States in the operation of an aircraft to an individual who is an alien (as defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3))) or to any other individual specified by the Under Secretary of Homeland Security for Border and Transportation Security only if—



“(A) that person has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual’s identification in such form as the Under Secretary may require; and

“(B) the Under Secretary has not directed, within 30 days after being notified under subparagraph (A), that person not to provide the requested training because the Under Secretary has determined that the individual presents a risk to aviation security or national security.

“(2) NOTIFICATION-ONLY INDIVIDUALS.—

“(A) IN GENERAL.—The requirements of paragraph (1) shall not apply to an alien individual who holds a visa issued under title I of the Immigration and Nationality Act (8 U.S.C. 1101 et seq.) and who—

“(i) has earned a Federal Aviation Administration type rating in an aircraft or has undergone type-specific training; or

“(ii) holds a current pilot’s license or foreign equivalent commercial pilot’s license that permits the person to fly an aircraft with a maximum certificated takeoff weight of more than 12,500 pounds as defined by the International Civil Aviation Organization in Annex 1 to the Convention on International Civil Aviation, if the person providing the training has notified the Under Secretary that the individual has requested such training and furnished the Under Secretary with that individual’s visa information.

“(B) EXCEPTION.—Subparagraph (A) does not apply to an alien individual whose airman’s certificate has been suspended or revoked under procedures established by the Under Secretary.

“(3) EXPEDITED PROCESSING.—The waiting period under paragraph (1) shall be expedited for an individual who—

“(A) has previously undergone a background records check by the Foreign Terrorist Tracking Task Force;

“(B) is employed by a foreign air carrier certified under part 129 of title 49, Code of Federal Regulations, that has a TSA 1546 approved security program and who is undergoing recurrent flight training;

“(C) is a foreign military pilot endorsed by the United States Department of Defense for flight training; or

“(D) who has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

“(4) INVESTIGATION AUTHORITY.—In order to determine whether an individual requesting training described in paragraph (1) presents a risk to aviation security or national security the Under Secretary is authorized to use the employment investigation authority provided by section 44936(a)(1)(A) for individuals applying for a position in which the individual has unescorted access to a secured area of an airport designated under section 44936(a)(1)(A)(ii).

“(5) FEE.—

“(A) IN GENERAL.—The Under Secretary may assess a fee for an investigation under this section, which may not exceed \$100 per individual (exclusive of the cost of transmitting fingerprints collected at overseas facilities) during fiscal years 2003 and 2004. For fiscal year 2005 and thereafter, the Under Secretary may adjust the maximum amount of the fee to reflect the costs of such an investigation.

“(B) OFFSET.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this section—

“(i) shall be credited to the account in the Treasury from which the expenses were incurred and shall be available to the Under Secretary for those expenses; and

“(ii) shall remain available until expended.

“(b) INTERRUPTION OF TRAINING.—If the Under Secretary, more than 30 days after receiving notification under subsection (a)(1)(A) from a person providing training described in subsection (a)(1) or at any time after receiving notice from such a person under subsection (a)(2)(A), determines that an individual receiving

such training presents a risk to aviation or national security, the Under Secretary shall immediately notify the person providing the training of the determination and that person shall immediately terminate the training.

“(c) COVERED TRAINING.—For purposes of subsection (a), the term ‘training’—

“(1) includes in-flight training, training in a simulator, and any other form or aspect of training; but

“(2) does not include classroom instruction (also known as ground school training), which may be provided during the 30-day period described in subsection (a)(1)(B).

“(d) INTERAGENCY COOPERATION.—The Attorney General, the Director of Central Intelligence, and the Administrator of the Federal Aviation Administration shall cooperate with the Under Secretary in implementing this section.

“(e) SECURITY AWARENESS TRAINING FOR EMPLOYEES.—The Under Secretary shall require flight schools to conduct a security awareness program for flight school employees, and for certified instructors who provide instruction for the flight school but who are not employees thereof, to increase their awareness of suspicious circumstances and activities of individuals enrolling in or attending flight school.”

“(b) PROCEDURES.—

“(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security shall promulgate an interim final rule to implement section 44939 of title 49, United States Code, as amended by subsection (a).

“(2) USE OF OVERSEAS FACILITIES.—In order to implement section 44939 of title 49, United States Code, as amended by subsection (a), United States Embassies and Consulates that possess appropriate fingerprint collection equipment and personnel certified to capture fingerprints shall provide fingerprint services to aliens covered by that section if the Under Secretary requires fingerprints in the administration of that section, and shall transmit the fingerprints to the Under Secretary or other agency designated by the Under Secretary. The Attorney General and the Secretary of State shall cooperate with the Under Secretary in carrying out this paragraph.

“(3) USE OF UNITED STATES FACILITIES.—If the Under Secretary requires fingerprinting in the administration of section 44939 of title 49, United States Code, the Under Secretary may designate locations within the United States that will provide fingerprinting services to individuals covered by that section.

“(c) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on the effective date of the interim final rule required by subsection (b)(1).

“(d) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the effectiveness of the activities carried out under section 44939 of title 49, United States Code, in reducing risks to aviation security and national security.

#### SEC. 523. EXEMPTION FOR JACKSON HOLE AIRPORT.

“(a) IN GENERAL.—Notwithstanding chapter 475 of title 49, United States Code, or any other provision of law, if the Board of the Jackson Hole Airport in Wyoming and the Secretary of the Interior agree that Stage 3 aircraft technology represents a prudent and feasible technological advance which, if implemented at the Jackson Hole Airport, will result in a reduction in noise at Grand Teton National Park—

“(1) the Jackson Hole Airport may impose restrictions on, or prohibit, the operation of Stage 2 aircraft weighing less than 75,000 pounds, with reasonable exemptions for public health and safety;

“(2) the notice, study, and comment provisions of subchapter II of chapter 475 of title 49, United States Code, and part 161 of title 14, Code of Federal Regulations, shall not apply to the imposition of the restrictions;

“(3) the imposition of the restrictions shall not affect the Airport’s eligibility to receive a grant under title 49, United States Code; and

“(4) the restrictions shall not be deemed to be unreasonable, discriminatory, a violation of the assurances required by section 47107(a) of title 49, United States Code, or an undue burden on interstate commerce.

“(b) DEFINITIONS.—In this section, the terms ‘Stage 2 aircraft’ and ‘Stage 3 aircraft’ have the same meaning as those terms have in chapter 475 of title 49, United States Code.

#### SEC. 524. DISTANCE REQUIREMENT APPLICABLE TO ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.

“(a) MEASUREMENT OF HIGHWAY MILEAGE FOR PURPOSES OF DETERMINING ELIGIBILITY FOR ESSENTIAL AIR SERVICE SUBSIDIES.—

“(1) DETERMINATION OF ELIGIBILITY.—Subchapter II of Chapter 417 of title 49, United States Code, is amended by adding at the end the following new section:

##### “§ 41746. Distance requirement applicable to eligibility for essential air service subsidies

“(a) IN GENERAL.—The Secretary shall not provide assistance under this subchapter with respect to a place in the 48 contiguous States that—

“(1) is less than 70 highway miles from the nearest hub airport; or

“(2) requires a rate of subsidy per passenger in excess of \$200, unless such place is greater than 210 highway miles from the nearest hub airport.

“(b) DETERMINATION OF MILEAGE.—For purposes of Lancaster, Pennsylvania, the highway mileage between a place and the nearest hub airport is the highway mileage of the most commonly used route between the place and the hub airport. In identifying such route, the Secretary shall—

“(1) promulgate by regulation a standard for calculating the mileage between Lancaster, Pennsylvania and a hub airport; and

“(2) identify the most commonly used route for a community by—

“(A) consulting with the Governor of a State or the Governor’s designee; and

“(B) considering the certification of the Governor of a State or the Governor’s designee as to the most commonly used route.”

“(2) CONFORMING AMENDMENT.—The analysis for subchapter II of chapter 417 of title 49, United States Code, is amended by inserting after the item relating to section 41745 the following new item:

“41746. Distance requirement applicable to eligibility for essential air service subsidies.”

“(b) REPEAL.—The following provisions of law are repealed:

“(1) Section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note).

“(2) Section 205 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note).

“(3) Section 334 of the Department of Transportation and Related Agencies Appropriations Act, 1999 (section 101(g) of division A of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999) (Public Law 105-277; 112 Stat. 2681-471).

“(c) SECRETARIAL REVIEW.—

“(1) REQUEST FOR REVIEW.—Any community with respect to which the Secretary has, between September 30, 1993, and the date of the enactment of this Act, eliminated subsidies or terminated subsidy eligibility under section 332 of the Department of Transportation and Related Agencies Appropriations Act, 2000 (49 U.S.C. 41731 note), section 205 of the Wendell H.

Ford Aviation Investment and Reform Act for the 21st Century (49 U.S.C. 41731 note), or any prior law of similar effect, may request the Secretary to review such action.

(2) **ELIGIBILITY DETERMINATION.**—Not later than 60 days after receiving a request under subsection (i), the Secretary shall—

(A) determine whether the community would have been subject to such elimination of subsidies or termination of eligibility under the distance requirement enacted by the amendment made by subsection (g) of this bill to subchapter II of chapter 417 of title 49, United States Code; and

(B) issue a final order with respect to the eligibility of such community for essential air service subsidies under subchapter II of chapter 417 of title 49, United States Code, as amended by this Act.

**SEC. 525. REIMBURSEMENT FOR LOSSES INCURRED BY GENERAL AVIATION ENTITIES.**

(a) **IN GENERAL.**—The Secretary of Transportation may make grants to reimburse the following general aviation entities for economic losses as a result of the restrictions imposed by the Federal Government following the terrorist attacks on the United States that occurred on September 11, 2001:

(1) General aviation entities that operate at Ronald Reagan Washington National Airport.

(2) Airports that are located within 15 miles of Ronald Reagan Washington National Airport and were operating under security restrictions on the date of enactment of this Act and general aviation entities operating at those airports.

(3) Any other general aviation entity that is prevented from doing business or operating by an action of the Federal Government prohibiting access to airspace by that entity.

(b) **DOCUMENTATION.**—Reimbursement under this section shall be made in accordance with sworn financial statements or other appropriate data submitted by each general aviation entity demonstrating the costs incurred and revenue foregone to the satisfaction of the Secretary.

(c) **GENERAL AVIATION ENTITY DEFINED.**—In this section, the term “general aviation entity” means any person (other than a scheduled air carrier or foreign air carrier, as such terms are defined in section 40102 of title 49, United States Code) that—

(1) operates nonmilitary aircraft under part 91 of title 14, Code of Federal Regulations, for the purpose of conducting its primary business;

(2) provides services necessary for nonmilitary operations under such part 91; or

(3) operates an airport, other than a primary airport (as such terms are defined in such section 40102), that—

(A) is listed in the national plan of integrated airport systems developed by the Federal Aviation Administration under section 47103 of such title; or

(B) is normally open to the public, is located within the confines of enhanced class B airspace (as defined by the Federal Aviation Administration in Notice to Airmen FDC 1/0618), and was closed as a result of an order issued by the Federal Aviation Administration in the period beginning September 11, 2001, and ending January 1, 2002, and remained closed as a result of that order on January 1, 2002.

Such term includes fixed based operators, persons engaged in nonscheduled air taxi service or aircraft rental.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$100,000,000. Such sums shall remain available until expended.

**SEC. 526. RECOMMENDATIONS CONCERNING TRAVEL AGENTS.**

(a) **REPORT.**—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall transmit to Congress a report on any actions that should be taken with respect to recommendations made by the National Commission to Ensure Consumer Information and Choice in the Airline Industry on—

(1) the travel agent arbiter program; and

(2) the special box on tickets for agents to include their service fee charges.

(b) **CONSULTATION.**—In preparing this report, the Secretary shall consult with representatives from the airline and travel agent industry.

**SEC. 527. PASS-THROUGH OF REFUNDED PASSENGER SECURITY FEES TO CODE-SHARE PARTNERS.**

(a) **IN GENERAL.**—Within 30 days after the date of enactment of this Act, each United States flag air carrier that received a payment made under the second proviso of first appropriation in title IV of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108-011; 117 Stat. 604) shall transfer to each air carrier with which it had a code-share arrangement during the period covered by the passenger security fees remitted under that proviso an amount equal to that portion of the remittance under the proviso that was attributable to passenger security fees paid or collected by that code-share air carrier and taken into account in determining the amount of the payment to the United States flag air carrier.

(b) **DOT INSPECTOR GENERAL OVERSIGHT.**—The Inspector General of the Department of Transportation shall review the compliance of United States flag air carriers with subsection (a), including determinations of amounts, determinations of eligibility of code-share air carriers, and transfers of funds to such air carriers under subsection (a).

(c) **CERTIFICATION.**—The chief executive officer of each United States flag air carrier to which subsection (a) applies shall certify to the Under Secretary of Homeland Security for Border and Transportation Security, under penalty of perjury, the air carrier's compliance with subsection (a).

**SEC. 528. AIR CARRIER CITIZENSHIP.**

Section 40102(a)(15)(C) of title 49, United States Code, is amended by inserting “which is under the actual control of citizens of the United States,” before “and in which”.

**SEC. 529. UNITED STATES PRESENCE IN GLOBAL AIR CARGO INDUSTRY.**

Section 41703 is amended by adding at the end the following new subsection:

“(e) **CARGO IN ALASKA.**—

“(1) **IN GENERAL.**—For the purposes of subsection (c), eligible cargo taken on or off any aircraft at a place in Alaska in the course of transportation of that cargo by any combination of 2 or more air carriers or foreign air carriers in either direction between a place in the United States and a place outside the United States shall not be deemed to have broken its international journey in, be taken on in, or be destined for Alaska.

“(2) **ELIGIBLE CARGO.**—For purposes of paragraph (1), the term “eligible cargo” means cargo transported between Alaska and any other place in the United States on a foreign air carrier (having been transported from, or thereafter being transported to, a place outside the United States on a different air carrier or foreign air carrier) that is carried—

“(A) under the code of a United States air carrier providing air transportation to Alaska;

“(B) on an air carrier way bill of an air carrier providing air transportation to Alaska;

“(C) under a term arrangement or block space agreement with an air carrier; or

“(D) under the code of a United States air carrier for purposes of transportation within the United States.”.

**TITLE VI—SECOND CENTURY OF FLIGHT**

**SEC. 601. FINDINGS.**

The Congress finds the following:

(1) Since 1990, the United States has lost more than 600,000 aerospace jobs.

(2) Over the last year, approximately 100,000 airline workers and aerospace workers have lost their jobs as a result of the terrorist attacks in the United States on September 11, 2001, and the slowdown in the world economy.

(3) The United States has revolutionized the way people travel, developing new technologies and aircraft to move people more efficiently and more safely.

(4) Past Federal investment in aeronautics research and development have benefited the economy and national security of the United States and the quality of life of its citizens.

(5) The total impact of civil aviation on the United States economy exceeds \$900,000,000,000 annually—9 percent of the gross national product—and 11 million jobs in the national workforce. Civil aviation products and services generate a significant surplus for United States trade accounts, and amount to significant numbers of America's highly skilled, technologically qualified work force.

(6) Aerospace technologies, products and services underpin the advanced capabilities of our men and women in uniform and those charged with homeland security.

(7) Future growth in civil aviation increasingly will be constrained by concerns related to aviation system safety and security, aviation system capabilities, aircraft noise, emissions, and fuel consumption.

(8) The United States is in danger of losing its aerospace leadership to international competitors aided by persistent government intervention. Many governments take their funding beyond basic technology development, choosing to fund product development and often bring the product to market, even if the products are not fully commercially viable. Moreover, international competitors have recognized the importance of noise, emission, fuel consumption, and constraints of the aviation system and have established aggressive agendas for addressing each of these concerns.

(9) Efforts by the European Union, through a variety of means, will challenge the United States' leadership position in aerospace. A recent report outlined the European Union's goal of becoming the world's leader in aviation and aeronautics by the end of 2020, utilizing better coordination among research programs, planning, and funding to accomplish this goal.

(10) Revitalization and coordination of the United States' efforts to maintain its leadership in aviation and aeronautics are critical and must begin now.

(11) A recent report by the Commission on the Future of the United States Aerospace Industry outlined the scope of the problems confronting the aerospace and aviation industries in the United States and found that—

(A) Aerospace will be at the core of America's leadership and strength throughout the 21st century;

(B) Aerospace will play an integral role in our economy, our security, and our mobility; and

(C) global leadership in aerospace is a national imperative.

(12) Despite the downturn in the global economy, Federal Aviation Administration projections indicate that upwards of 1 billion people will fly annually by 2013. Efforts must begin now to prepare for future growth in the number of airline passengers.

(13) The United States must increase its investment in research and development to revitalize the aviation and aerospace industries, to create jobs, and to provide educational assistance and training to prepare workers in those industries for the future.

(14) Current and projected levels of Federal investment in aeronautics research and development are not sufficient to address concerns related to the growth of aviation.

**Subtitle A—The Office of Aerospace and Aviation Liaison**

**SEC. 621. OFFICE OF AEROSPACE AND AVIATION LIAISON.**

(a) **ESTABLISHMENT.**—There is established within the Department of Transportation an Office of Aerospace and Aviation Liaison.

(b) **FUNCTION.**—The Office shall—

(1) coordinate aviation and aeronautics research programs to achieve the goal of more effective and directed programs that will result in applicable research;

(2) coordinate goals and priorities and coordinate research activities within the Federal Government with United States aviation and aeronautical firms;

(3) coordinate the development and utilization of new technologies to ensure that when available, they may be used to their fullest potential in aircraft and in the air traffic control system;

(4) facilitate the transfer of technology from research programs such as the National Aeronautics and Space Administration program established under section 681 and the Department of Defense Advanced Research Projects Agency program to Federal agencies with operational responsibilities and to the private sector;

(5) review activities relating to noise, emissions, fuel consumption, and safety conducted by Federal agencies, including the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Commerce, and the Department of Defense;

(6) review aircraft operating procedures intended to reduce noise and emissions, identify and coordinate research efforts on aircraft noise and emissions reduction, and ensure that aircraft noise and emissions reduction regulatory measures are coordinated; and

(7) work with the National Air Traffic Management System Development Office to coordinate research needs and applications for the next generation air traffic management system.

(c) **PUBLIC-PRIVATE PARTICIPATION.**—In carrying out its functions under this section, the Office shall consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, and the space industry), members of the public, and other interested parties.

(d) **REPORTING REQUIREMENTS.**—

(1) **INITIAL STATUS REPORT.**—Not later than 90 days after the date of enactment of this Act, the Secretary of Transportation shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of the establishment of the Office of Aerospace and Aviation Liaison, including the name of the program manager, the list of staff from each participating department or agency, names of the national team participants, and the schedule for future actions.

(2) **PLAN.**—The Office shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Science a plan for implementing paragraphs (1) and (2) of subsection (b) and a proposed budget for implementing the plan.

(3) **ANNUAL REPORT.**—The Office shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Transportation and Infrastructure, and the House of Representatives Committee on Science an annual report that—

(A) contains a unified budget that combines the budgets of each program coordinated by the Office; and

(B) describes the coordination activities of the Office during the preceding year.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Transportation \$2,000,000 for fiscal years 2004 and 2005 to carry out this section, such sums to remain available until expended.

#### **SEC. 622. NATIONAL AIR TRAFFIC MANAGEMENT SYSTEM DEVELOPMENT OFFICE.**

(a) **ESTABLISHMENT.**—There is established within the Federal Aviation Administration a National Air Traffic Management System Development Office, the head of which shall report directly to the Administrator.

(b) **DEVELOPMENT OF NEXT GENERATION AIR TRAFFIC MANAGEMENT SYSTEM.**—

(1) **IN GENERAL.**—The Office shall develop a next generation air traffic management system plan for the United States that will—

(A) transform the national airspace system to meet air transportation mobility, efficiency, and capacity needs beyond those currently included in the Federal Aviation Administration's operational evolution plan;

(B) result in a national airspace system that can safely and efficiently accommodate the needs of all users;

(C) build upon current air traffic management and infrastructure initiatives;

(D) improve the security, safety, quality, and affordability of aviation services;

(E) utilize a system-of-systems, multi-agency approach to leverage investments in civil aviation, homeland security, and national security;

(F) develop a highly integrated, secure architecture to enable common situational awareness for all appropriate system users; and

(G) ensure seamless global operations for system users, to the maximum extent possible.

(2) **MULTI-AGENCY AND STAKEHOLDER INVOLVEMENT.**—In developing the system, the Office shall—

(A) include staff from the Federal Aviation Administration, the National Aeronautics and Space Administration, the Department of Homeland Security, the Department of Defense, the Department of Commerce, and other Federal agencies and departments determined by the Secretary of Transportation to have an important interest in, or responsibility for, other aspects of the system; and

(B) consult with, and ensure participation by, the private sector (including representatives of general aviation, commercial aviation, and the space industry), members of the public, and other interested parties.

(3) **DEVELOPMENT CRITERIA AND REQUIREMENTS.**—In developing the next generation air traffic management system plan under paragraph (1), the Office shall—

(A) develop system performance requirements;

(B) select an operational concept to meet system performance requirements for all system users;

(C) ensure integration of civil and military system requirements, balancing safety, security, and efficiency, in order to leverage Federal funding;

(D) utilize modeling, simulation, and analytical tools to quantify and validate system performance and benefits;

(E) develop a transition plan, including necessary regulatory aspects, that ensures operational achievability for system operators;

(F) develop transition requirements for ongoing modernization programs, if necessary;

(G) develop a schedule for aircraft equipment implementation and appropriate benefits and incentives to make that schedule achievable; and

(H) assess, as part of its function within the Office of Aeronautical and Aviation Liaison, the technical readiness of appropriate research technological advances for integration of such research and advances into the plan.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration \$300,000,000 for the period beginning with fiscal year 2004 and ending with fiscal year 2010 to carry out this section.

#### **SEC. 623. REPORT ON CERTAIN MARKET DEVELOPMENTS AND GOVERNMENT POLICIES.**

Within 6 months after the date of enactment of this Act, the Department of Transportation's Office of Aerospace and Aviation liaison, in cooperation with appropriate Federal agencies, shall submit to the Senate Committee on Commerce, Science, and Transportation, the House of Representatives Committee on Science, and the House of Representatives Committee on Transportation and Infrastructure a report about market developments and government policies influencing the competitiveness of the

United States jet transport aircraft industry that—

(1) describes the structural characteristics of the United States and the European Union jet transport industries, and the markets for these industries;

(2) examines the global market factors affecting the jet transport industries in the United States and the European Union, such as passenger and freight airline purchasing patterns, the rise of low-cost carriers and point-to-point service, the evolution of new market niches, and direct and indirect operating cost trends;

(3) reviews government regulations in the United States and the European Union that have altered the competitive landscape for jet transport aircraft, such as airline deregulation, certification and safety regulations, noise and emissions regulations, government research and development programs, advances in air traffic control and other infrastructure issues, corporate and air travel tax issues, and industry consolidation strategies;

(4) analyzes how changes in the global market and government regulations have affected the competitive position of the United States aerospace and aviation industry vis-à-vis the European Union aerospace and aviation industry; and

(5) describes any other significant developments that affect the market for jet transport aircraft.

#### **SEC. 624. TRANSFER OF CERTAIN AIR TRAFFIC CONTROL FUNCTIONS PROHIBITED.**

(a) **IN GENERAL.**—The Secretary of Transportation may not authorize the transfer to a private entity or to a public entity other than the United States Government of—

(1) the air traffic separation and control functions operated by the Federal Aviation Administration on the date of enactment of this Act; or

(2) the maintenance of certifiable systems and other functions related to certification of national airspace systems and services operated by the Federal Aviation Administration on the date of enactment of this Act or flight service station personnel.

(b) **CONTRACT TOWER PROGRAM.**—Subsection (a)(1) shall not apply to a Federal Aviation Administration air traffic control tower operated under the contract tower program as of the date of enactment of this Act.

#### **Subtitle B—Technical Programs**

#### **SEC. 641. AEROSPACE AND AVIATION SAFETY WORKFORCE INITIATIVE.**

(a) **IN GENERAL.**—The Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall establish a joint program of competitive, merit-based grants for eligible applicants to increase the number of students studying toward and completing technical training programs, certificate programs, and associate's, bachelor's, master's, or doctorate degrees in fields related to aerospace and aviation safety.

(b) **INCREASED PARTICIPATION GOAL.**—In selecting projects under this paragraph, the Director shall consider means of increasing the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace and aviation safety who are individuals identified in section 33 or 34 of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885a or 1885b).

(c) **SUPPORTABLE PROJECTS.**—The types of projects the Administrators may consider under this paragraph include those that promote high quality—

(1) interdisciplinary teaching;

(2) undergraduate-conducted research;

(3) mentor relationships for students;

(4) graduate programs;

(5) bridge programs that enable students at community colleges to matriculate directly into

baccalaureate aerospace and aviation safety related programs;

(6) internships, including mentoring programs, carried out in partnership with the aerospace and aviation industry;

(7) technical training and apprenticeship that prepares students for careers in aerospace manufacturing or operations; and

(8) innovative uses of digital technologies, particularly at institutions of higher education that serve high numbers or percentages of economically disadvantaged students.

(d) **GRANTEE REQUIREMENTS.**—In developing grant requirements under this section, the Administrators shall consider means, developed in concert with applicants, of increasing the number of students studying toward and completing technical training and apprenticeship programs, certificate programs, and associate's or bachelor's degrees in fields related to aerospace and aviation safety.

(e) **DEFINITIONS.**—In this section:

(1) **ELIGIBLE APPLICANT DEFINED.**—The term "eligible applicant" means—

(A) an institution of higher education;

(B) a consortium of institutions of higher education; or

(C) a partnership between—

(i) an institution of higher education or a consortium of such institutions; and

(ii) a nonprofit organization, a State or local government, or a private company, with demonstrated experience and effectiveness in aerospace education.

(2) **INSTITUTION OF HIGHER EDUCATION.**—The term "institution of higher education" has the meaning given that term by subsection (a) of section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes an institution described in subsection (b) of that section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **NASA.**—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(2) **FAA.**—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(g) **REPORT, BUDGET, AND PLAN.**—Within 180 days after the date of enactment of this Act, the Administrators jointly shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth—

(1) recommendations as to whether the program authorized by this section should be extended for multiple years;

(2) a budget for such a multi-year program; and

(3) a plan for conducting such a program.

#### **SEC. 642. SCHOLARSHIPS FOR SERVICE.**

(a) **IN GENERAL.**—The Administrator of the National Aeronautics and Space Administration and the Administrator of the Federal Aviation Administration shall develop a joint student loan program for fulltime students enrolled in an undergraduate or post-graduate program leading to an advanced degree in an aerospace-related or aviation safety-related field of endeavor.

(b) **INTERNSHIPS.**—The Administrators may provide temporary internships to such students.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—

(1) **NASA.**—There are authorized to be appropriated to the Administrator of the National Aeronautics and Space Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(2) **FAA.**—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration such sums as may be necessary for fiscal year 2004 to carry out this section.

(g) **REPORT, BUDGET, AND PLAN.**—Within 180 days after the date of enactment of this Act, the Administrators jointly shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report setting forth—

(1) recommendations as to whether the program authorized by this section should be extended for multiple years;

(2) a budget for such a multi-year program; and

(3) a plan for conducting such a program.

#### **Subtitle C—FAA Research, Engineering, and Development**

#### **SEC. 661. RESEARCH PROGRAM TO IMPROVE AIRFIELD PAVEMENTS.**

The Administrator of the Federal Aviation Administration shall continue the program to consider awards to nonprofit concrete and asphalt pavement research foundations to improve the design, construction, rehabilitation, and repair of rigid concrete airfield pavements to aid in the development of safer, more cost-effective, and more durable airfield pavements. The Administrator may use grants or cooperative agreements in carrying out this section. Nothing in this section requires the Administrator to prioritize an airfield pavement research program above safety, security, Flight 21, environment, or energy research programs.

#### **SEC. 662. ENSURING APPROPRIATE STANDARDS FOR AIRFIELD PAVEMENTS.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall review and determine whether the Federal Aviation Administration's standards used to determine the appropriate thickness for asphalt and concrete airfield pavements are in accordance with the Federal Aviation Administration's standard 20-year-life requirement using the most up-to-date available information on the life of airfield pavements. If the Administrator determines that such standards are not in accordance with that requirement, the Administrator shall make appropriate adjustments to the Federal Aviation Administration's standards for airfield pavements.

(b) **REPORT.**—Within 1 year after the date of enactment of this Act, the Administrator shall report the results of the review conducted under subsection (a) and the adjustments, if any, made on the basis of that review to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

#### **SEC. 663. ASSESSMENT OF WAKE TURBULENCE RESEARCH AND DEVELOPMENT PROGRAM.**

(a) **ASSESSMENT.**—The Administrator of the Federal Aviation Administration shall enter into an arrangement with the National Research Council for an assessment of the Federal Aviation Administration's proposed wake turbulence research and development program. The assessment shall include—

(1) an evaluation of the research and development goals and objectives of the program;

(2) a listing of any additional research and development objectives that should be included in the program;

(3) any modifications that will be necessary for the program to achieve the program's goals and objectives on schedule and within the proposed level of resources; and

(4) an evaluation of the roles, if any, that should be played by other Federal agencies, such as the National Aeronautics and Space Administration and the National Oceanic and Atmospheric Administration, in wake turbulence research and development, and how those efforts could be coordinated.

(b) **REPORT.**—A report containing the results of the assessment shall be provided to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate not

later than 1 year after the date of enactment of this Act.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration \$500,000 for fiscal year 2004 to carry out this section.

#### **SEC. 664. AIR QUALITY IN AIRCRAFT CABINS.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall undertake the studies and analysis called for in the report of the National Research Council entitled "The Airliner Cabin Environment and the Health of Passengers and Crew".

(b) **REQUIRED ACTIVITIES.**—In carrying out this section, the Administrator, at a minimum, shall—

(1) conduct surveillance to monitor ozone in the cabin on a representative number of flights and aircraft to determine compliance with existing Federal Aviation Regulations for ozone;

(2) collect pesticide exposure data to determine exposures of passengers and crew;

(3) analyze samples of residue from aircraft ventilation ducts and filters after air quality incidents to identify the contaminants to which passengers and crew were exposed;

(4) analyze and study cabin air pressure and altitude; and

(5) establish an air quality incident reporting system.

(c) **REPORT.**—Not later than 30 months after the date of enactment of this Act, the Administrator shall transmit to Congress a report on the findings of the Administrator under this section.

#### **SEC. 665. INTERNATIONAL ROLE OF THE FAA.**

Section 40101(d) is amended by adding at the end the following:

"(8) Exercising leadership with the Administrator's foreign counterparts, in the International Civil Aviation Organization and its subsidiary organizations, and other international organizations and fora, and with the private sector to promote and achieve global improvements in the safety, efficiency, and environmental effect of air travel."

#### **SEC. 666. FAA REPORT ON OTHER NATIONS' SAFETY AND TECHNOLOGICAL ADVANCEMENTS.**

The Administrator of the Federal Aviation Administration shall review aviation and aeronautical safety, and research funding and technological actions in other countries. The Administrator shall submit a report to the Committee on Science of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate, together with any recommendations as to how such activities might be utilized in the United States.

#### **SEC. 667. DEVELOPMENT OF ANALYTICAL TOOLS AND CERTIFICATION METHODS.**

The Federal Aviation Administration shall conduct research to promote the development of analytical tools to improve existing certification methods and to reduce the overall costs for the certification of new products.

#### **SEC. 668. PILOT PROGRAM TO PROVIDE INCENTIVES FOR DEVELOPMENT OF NEW TECHNOLOGIES.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration may conduct a limited pilot program to provide operating incentives to users of the airspace for the deployment of new technologies, including technologies to facilitate expedited flight routing and sequencing of take-offs and landings.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator \$500,000 for fiscal year 2004.

#### **SEC. 669. FAA CENTER FOR EXCELLENCE FOR APPLIED RESEARCH AND TRAINING IN THE USE OF ADVANCED MATERIALS IN TRANSPORT AIRCRAFT.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration shall develop a Center for Excellence focused on applied research and training on the durability and maintainability of advanced materials in transport

airframe structures, including the use of polymeric composites in large transport aircraft. The Center shall—

(1) promote and facilitate collaboration among academia, the Federal Aviation Administration's Transportation Division, and the commercial aircraft industry, including manufacturers, commercial air carriers, and suppliers; and

(2) establish goals set to advance technology, improve engineering practices, and facilitate continuing education in relevant areas of study.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator \$500,000 for fiscal year 2004 to carry out this section.

#### **SEC. 670. FAA CERTIFICATION OF DESIGN ORGANIZATIONS.**

(a) **GENERAL AUTHORITY TO ISSUE CERTIFICATES.**—Section 44702(a) is amended by inserting "design organization certificates," after "airman certificates,".

(b) **DESIGN ORGANIZATION CERTIFICATES.**—

(1) **IN GENERAL.**—Section 44704 is amended—

(A) by striking the section heading and inserting the following:

**"§ 44704. Design organization certificates, type certificates, production certificates, and airworthiness certificates";**

(B) by redesignating subsections (a) through (d) as subsections (b) through (e);

(C) by inserting before subsection (b) the following:

**"(a) DESIGN ORGANIZATION CERTIFICATES.—**

**"(1) PLAN.**—Within 3 years after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Administrator of the Federal Aviation Administration shall submit a plan to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure for the development and oversight of a system for certification of design organizations under paragraph (2) that ensures that the system meets the highest standards of safety.

**"(2) IMPLEMENTATION OF PLAN.**—Within 5 years after the date of enactment of the Aviation Investment and Revitalization Vision Act, the Administrator of the Federal Aviation Administration may commence the issuance of design organization certificates under paragraph (3) to authorize design organizations to certify compliance with the requirements and minimum standards prescribed under section 44701(a) for the type certification of aircraft, aircraft engines, propellers, or appliances.

**"(3) ISSUANCE OF CERTIFICATES.**—On receiving an application for a design organization certificate, the Administrator shall examine and rate the design organization in accordance with the regulations prescribed by the Administrator to determine that the design organization has adequate engineering, design, and testing capabilities, standards, and safeguards to ensure that the product being certificated is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under that section. The Administrator shall include in a design organization certificate terms required in the interest of safety.

**"(4) NO EFFECT ON POWER OF REVOCATION.**—Nothing in this subsection affects the authority of the Secretary of Transportation to revoke a certificate.";

(D) by striking subsection (b), as redesignated, and inserting the following:

**"(b) TYPE CERTIFICATES.—**

**"(1) IN GENERAL.**—The Administrator may issue a type certificate for an aircraft, aircraft engine, or propeller, or for an appliance specified under paragraph (2)(A) of this subsection—

**"(A) when the Administrator finds that the aircraft, aircraft engine, or propeller, or appliance is properly designed and manufactured, performs properly, and meets the regulations and minimum standards prescribed under section 44701(a) of this title; or**

**"(B) based on a certification of compliance made by a design organization certificated under subsection (a).**

**"(2) INVESTIGATION AND HEARING.**—On receiving an application for a type certificate, the Administrator shall investigate the application and may conduct a hearing. The Administrator shall make, or require the applicant to make, tests the Administrator considers necessary in the interest of safety."

(c) **REINSPECTION AND REEXAMINATION.**—Section 44709(a) is amended by inserting "design organization, production certificate holder," after "appliance,".

(d) **PROHIBITIONS.**—Section 44711(a)(7) is amended by striking "agency" and inserting "agency, design organization certificate,".

(e) **CONFORMING AMENDMENTS.**—

(1) **CHAPTER ANALYSIS.**—The chapter analysis for chapter 447 is amended by striking the item relating to section 44704 and inserting the following:

**"44704. Design organization certificates, type certificates, production certificates, and airworthiness certificates."**

(2) **CROSS REFERENCE.**—Section 44715(a)(3) is amended by striking "44704(a)" and inserting "44704(b)".

#### **SEC. 671. REPORT ON LONG TERM ENVIRONMENTAL IMPROVEMENTS.**

(a) **IN GENERAL.**—The Administrator of the Federal Aviation Administration, in consultation with the Administrator of the National Aeronautics and Space Administration and the head of the Department of Transportation's Office of Aerospace and Aviation Liaison, shall conduct a study of ways to reduce aircraft noise and emissions and to increase aircraft fuel efficiency. The study shall—

(1) explore new operational procedures for aircraft to achieve those goals;

(2) identify both near term and long term options to achieve those goals;

(3) identify infrastructure changes that would contribute to attainment of those goals;

(4) identify emerging technologies that might contribute to attainment of those goals;

(5) develop a research plan for application of such emerging technologies, including new combustor and engine design concepts and methodologies for designing high bypass ratio turbofan engines so as to minimize the effects on climate change per unit of production of thrust and flight speed; and

(6) develop an implementation plan for exploiting such emerging technologies to attain those goals.

(b) **REPORT.**—The Administrator shall transmit a report on the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Administrator of the Federal Aviation Administration \$500,000 for fiscal year 2004 to carry out this section.

#### **TITLE VII—EXTENSION OF AIRPORT AND AIRWAY TRUST FUND EXPENDITURE AUTHORITY**

##### **SEC. 701. EXTENSION OF EXPENDITURE AUTHORITY.**

(a) **IN GENERAL.**—Paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended—

(1) by striking "October 1, 2003" and inserting "October 1, 2006", and

(2) by inserting before the semicolon at the end of subparagraph (A) the following: "or the Aviation Investment and Revitalization Vision Act".

(b) **CONFORMING AMENDMENT.**—Paragraph (2) of section 9502(f) of the Internal Revenue Code

of 1986 is amended by striking "October 1, 2003" and inserting "October 1, 2006".

#### **LEGISLATIVE PROGRESS**

Mr. FRIST. Mr. President, in a few moments we will be adjourning until Monday afternoon. But in looking back over the last 5 days, I do want to share with my colleagues my satisfaction with the progress we have made.

I have had the pleasure of opening the Senate most every day, and then closing it most every day or evening and at the end of the week, so it gives me an opportunity to look back. For just a few minutes I would like to comment on some of the things we accomplished this week.

We had very good debate—strong debate, effective debate—on the Energy bill over the past week and, in fact, over the past 2 weeks.

I do want to take this opportunity to thank, praise and commend the chairman of the Energy Committee, the distinguished Senator from New Mexico, Chairman DOMENICI, for his tremendous work in moving us forward on this critically important bill. We have made solid progress. We have had a number of votes this week.

As all of my colleagues know—because I have said it on this floor and in many other places almost daily—we will be turning to the Medicare prescription drug bill next week. We will stay on the bill until we complete that legislation. I think we can finish it actually in less than 2 weeks, although I have targeted a 2-week period, which gives more than adequate time for debate and amendment. I am even more confident that we will be able to pass that bill after spending about 12 hours yesterday in the Finance Committee meeting, where we looked at the bill, debated it, amended it, and passed it with a strong bipartisan majority in preparation for coming to the floor.

But I do want to make it very, very clear that we will be coming back to the Energy bill, and we will finish it.

Also, this week, we accomplished a lot, locking in an agreement which limits the number of amendments that can be considered on the Energy bill. That is real progress because now we have a finite number of amendments, and we can talk to the various Members and see what they have proposed and get those amendments organized in such a way that we can spend time on each of the amendments in a way that makes sense, that is systematic, and whereby we will be able to, I believe, lay out a glidepath to bring that bill to conclusion.

It is imperative for the United States of America that we have a comprehensive energy policy. It is America's future that is at stake, our economic future, so much so that, in fact, the Federal Reserve Chairman, Alan Greenspan, came to the Hill this past week to speak specifically on the need for action on energy policy.

The price of natural gas for July delivery is 150 percent higher than it was